

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 08-13555-scc

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6 In the Matter of:

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8 LEHMAN BROTHERS HOLDINGS INC.,

9  
10 Debtor.

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14 U.S. Bankruptcy Court

15 One Bowling Green

16 New York, New York

17  
18 February 3, 2017

19 10:10 AM

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23 B E F O R E :

24 HON SHELLEY C. CHAPMAN

25 U.S. BANKRUPTCY JUDGE

1 Trial on Lehman's Objection to Claims of QVT (Doc #17468  
2 Debtors' One Hundred Fifty-Fifth Omnibus Objection to Claims)

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P R O C E E D I N G S

THE COURT: How's everyone today?

MR. TAMBE: Fine. Thank you, Your Honor.

THE COURT: It's Friday. Welcome back. It's been a very long week for you folks. We get e-mails at 1:00 in the morning, 3:00 in the morning.

Ready --

MR. TRACEY: We were sleeping, too, Your Honor.

THE COURT: Pardon me?

MR. TRACEY: Jay and I were sleeping, too.

MR. TAMBE: I don't know how he knows what I was doing, but I wasn't sleeping.

There's a lack of foundation, Your Honor.

THE COURT: I do appreciate the good will between the two sides. It makes it a little -- it makes it easier.

Welcome back.

THE WITNESS: Thank you, Your Honor.

THE COURT: Whenever you're ready, Mr. Tracey.

MR. TRACEY: I thought I might just pick up with two issues that came up --

THE COURT: Sure.

MR. TRACEY: -- yesterday. It won't take a lot of time.

The first is relating to the issue that arose yesterday relating to Exhibit 2108 which is the --

1 THE COURT: The spreadsheet.

2 MR. TRACEY: -- the workbook.

3 THE COURT: Okay.

4 MR. TRACEY: And we did some homework overnight and I  
5 think we have resolved the issue, and I've advised Mr. Tambe  
6 what we found and they're going to look into it.

7 But basically to summarize it, the issue was that  
8 Exhibit 2108 does not have certain sheets that it previously  
9 had and that were in previous iterations of the spreadsheet.  
10 And we wanted to go back and make sure that we hadn't failed to  
11 log any of the ones that were pulled out on a privilege log.  
12 That was really --

13 THE COURT: Sure.

14 MR. TRACEY: -- the issue.

15 THE COURT: Okay.

16 MR. TRACEY: So just to go back, we -- there were  
17 many, many iterations of this spreadsheet on the G drive at  
18 QVT. We collected every single one of them as part of the  
19 discovery process and we produced many, many versions of it to  
20 Jones Day.

21 During the course --

22 THE COURT: That's the part I don't understand is  
23 that it's a live document, but collecting versions implies that  
24 you can -- that there exists what I call snapshots of prior  
25 versions. So that's the part I don't understand.

1 MR. TRACEY: Correct. So over the course of the last  
2 eight years that document has been saved with a unique name in  
3 the G drive over many, many times. So you do have snapshots at  
4 various times. It's not the -- not always the perfect times,  
5 but you do have a lot of snapshots.

6 THE COURT: Okay.

7 MR. TRACEY: So just to answer the first question  
8 that's probably in your mind, why don't we have a snapshot as  
9 of October 15th. We don't. We have one as of October 13th, I  
10 believe, and we're providing the Bate stamp numbers to --

11 THE COURT: Okay.

12 MR. TRACEY: -- Jones Day for those -- for that  
13 iteration. And to the extent that anybody wants to, you know,  
14 ask questions about it with witnesses that's of course fine.

15 So going back to the privilege question --

16 THE COURT: Right.

17 MR. TRACEY: -- the parties agreed during the course  
18 -- well, let me go back. So all of these snapshots were -- had  
19 formulas in them originally that looked to other documents  
20 within the G drive and in some cases to external sources or QVT  
21 systems.

22 So during the course of discovery Lehman's counsel  
23 asked for a hard coded version which we then produced.

24 THE COURT: Right.

25 MR. TRACEY: I believe they selected the one that was

1 to be hardcoded, but it doesn't matter. We all agreed that a  
2 particular one would be hardcoded so it could be used in  
3 discovery. That was produced and it was stamped Bate Stamp  
4 Number 888. So that was the spreadsheet. We came to call it  
5 the 888 spreadsheet and it was used through all the depositions  
6 to ask -- you know, ask all the witnesses what they did.

7 That one, as we discussed yesterday, did not have  
8 every tab in it. So what we did during the course of  
9 discovery, we agreed together that we wouldn't log any  
10 documents that were created after June 7th, 2011, and we  
11 selected that date because that was the date that Lehman  
12 submitted its objection to our claim. And we all agreed that  
13 after that it's really in litigation so why --

14 THE COURT: Right.

15 MR. TRACEY: -- should we log everything. So that  
16 was the agreement. And so what we did last night is we -- what  
17 we had to do is determine whether they had everything as of  
18 June 7th, 2011. If they have it, we're done. There's nothing  
19 to log. So we went back and, in fact, fortunately there is  
20 actually a version that was snapshotted as of June 7th, 2011.  
21 We produced that last November to Jones Day. We -- I've given  
22 them this morning this -- the Bate stamp number and if they  
23 verify that I think we're done.

24 THE COURT: Okay. Anything on that, Mr. Tambe?

25 MR. TAMBE: Just a few responses. We are verifying



1 it, so.

2 THE COURT: Okay.

3 MR. TAMBE: There was throughout discovery of an  
4 inquiry from our side as to really what is the operative  
5 spreadsheet and we took a 30(b)(6) deposition and one of the  
6 topics of the 30(b)(6) deposition was what supports the claim,  
7 what are the calculations and what are the underlying documents  
8 that support the claim.

9 Notwithstanding I think all of that we frankly  
10 learned some new information through the course of the trial  
11 and so we're trying to marry those --

12 THE COURT: Sure.

13 MR. TAMBE: -- two things together.

14 In terms of prior iterations I think one of the  
15 issues with the prior iterations was I think they all came with  
16 formulas which are not functional once they are with us.

17 THE COURT: Right. But that's where the hard coding  
18 comes in.

19 MR. TAMBE: That's where the hard code comes in.

20 THE COURT: Right.

21 MR. TAMBE: So there's a -- there may still be a  
22 practical issue at our end of saying, okay, we've got something  
23 that purports to be a 9/28 version of this document, but no way  
24 for us to compare it --

25 THE COURT: Uh-huh.

1 MR. TAMBE: -- because what we have is a hard coded  
2 document which is a later document.

3 THE COURT: Uh-huh.

4 MR. TAMBE: So all I'm saying is we need to look into  
5 it --

6 THE COURT: Sure.

7 MR. TAMBE: -- more to figure out if this answers the  
8 question or not, but we appreciate the additional information.

9 THE COURT: Okay. Good. All right. Was there a  
10 second thing?

11 MR. TRACEY: The second thing was just Your Honor had  
12 asked about snapshots or screenshots of things that might be  
13 helpful in the course of the testimony to follow along with the  
14 testimony.

15 THE COURT: Right.

16 MR. TRACEY: And so --

17 THE COURT: Or to have it afterwards, after the  
18 testimony. When we're at the end of the day, right, when --

19 MR. TRACEY: Well --

20 THE COURT: Yeah.

21 MR. TRACEY: -- we can do it that way. What we were  
22 thinking is we have prepared a summary by witness of the 2108  
23 spreadsheet information that they are going to testify about.

24 So they'll testify from the original document.

25 THE COURT: Right.

1 MR. TRACEY: It will be in front of them. But to  
2 follow along it might be helpful for the Court and everyone to  
3 have a --

4 THE COURT: So it will be a demonstrative?

5 MR. TRACEY: It will be a demonstrative exhibit,  
6 exactly --

7 THE COURT: That sounds good.

8 MR. TRACEY: -- for each witness, and this way you  
9 can follow along. But it's only a demonstrative or a -- I  
10 mean, it might be --

11 THE COURT: Right. But it would be --

12 MR. TRACEY: -- a 1009 but --

13 THE COURT: -- tied back to the original spreadsheet  
14 --

15 MR. TRACEY: Exactly.

16 THE COURT: -- in a fashion that is accurate as  
17 testified to by the witness.

18 MR. TRACEY: Correct.

19 THE COURT: So that -- that sounds -- that's helpful  
20 to me if it's okay with you.

21 MR. TAMBE: It could certainly be helpful. Two  
22 observations: One, it's a demonstrative, not evidence.

23 THE COURT: Right.

24 MR. TAMBE: It ties back to a spreadsheet that may  
25 not be evidence itself.

1 THE COURT: Understood.

2 MR. TAMBE: As long as we're clear on that, if it's  
3 something that helps the witness testify and it --

4 THE COURT: Right.

5 MR. TAMBE: -- helps it -- makes it --

6 THE COURT: Helps me --

7 MR. TAMBE: -- easier for us to follow, that's fine.

8 THE COURT: -- be able to recollect the details  
9 afterwards.

10 MR. TAMBE: And the last piece of it is I'm not sure  
11 what these summaries really look like, so it may not be  
12 possible for us in real time to see whether they're accurate or  
13 not. We may have to sort of come back to that after we've  
14 examined them. But for purposes --

15 THE COURT: That's fine.

16 MR. TAMBE: -- of testimony, that's fine.

17 THE COURT: Okay. Great. All right.

18 MR. TRACEY: And that's all fine.

19 THE COURT: Okay.

20 MR. TRACEY: I guess the only thing is at some point  
21 during the trial, and I think there was testimony that some of  
22 the sheets in 2108 were prepared by Julian Sale and the other  
23 traders. So before we -- I know we're not offering things into  
24 evidence, but before we consider it fully authenticated we're  
25 going to put on the witness --

1 THE COURT: Sure.

2 MR. TRACEY: -- the testimony of those witnesses. At  
3 some point during the trial I would like to have a conversation  
4 about whether we're done with authentication on that document  
5 because I don't want to be uncertain about that.

6 THE COURT: That's fair.

7 MR. TAMBE: Yeah. At some point we should have that  
8 discussion because at least based on the current lineup of the  
9 witnesses we see an issue coming up. But -- because, you know  
10 --

11 MR. TRACEY: I don't know what the issue is, but  
12 we'll --

13 THE COURT: Okay. Well --

14 MR. TRACEY: -- we'll see.

15 THE COURT: -- maybe you can discuss --

16 MR. TRACEY: Yeah.

17 THE COURT: -- what the issue is. So -- all right.  
18 So why don't we get started in the hope that Mr. Chu can be  
19 finished by the end of the day today. And I'm not even going  
20 to begin to talk to you about how far off we are from our  
21 original estimate on what we thought we were going to be doing.

22 MR. TRACEY: We have a new schedule that we're going  
23 to send around to everyone today as a suggestion.

24 THE COURT: Okay. All right. Sounds good.

25 (Pause)

1 MR. TRACEY: May I approach, Your Honor?

2 THE COURT: Yes. Good morning.

3 MR. BECK: Good morning. John Beck of Hogan Lovells  
4 on behalf of QVT.

5 MS. SAWYER: Can we -- is there copies for us

6 MR. BECK: Yes. They're right here.

7 So what we've done, Your Honor, is we have filtered  
8 the Lehman positions master tab in the sort of big QVT workbook  
9 --

10 THE COURT: Right.

11 MR. BECK: -- to be -- we're going to do this for  
12 each witness to -- this one is only Arthur Chu's positions that  
13 he valued, and then we've only -- we've also filtered it so  
14 it's only the QVT positions. If you remember Quintessence had  
15 essentially duplicate positions.

16 THE COURT: Sure.

17 MR. BECK: So that is what this is for Arthur. And  
18 what the internal -- if you look on the first row where it  
19 says, A, B, C and then L, so I guess second row technically,  
20 those are the columns that correspond to the actual spreadsheet  
21 and the -- and some of those columns have been removed, the  
22 ones that are not necessary for testimony.

23 THE COURT: Now I'm not following you. So it -- I'm  
24 at the very top going across alphabetically --

25 MR. BECK: Uh-huh.

1 THE COURT: -- from left to right and there's L and  
2 then there's a Y underneath.

3 MR. BECK: So it goes L, M --

4 (Pause)

5 THE COURT: I got it. Okay. So at the very --  
6 you're going to be referring to this by the very top --

7 MR. BECK: We're going to be --

8 THE COURT: -- right?

9 MR. BECK: -- referring to it, actually the witness -  
10 - so the witness will say, for instance, looking at the actual  
11 spreadsheet, you know, if you look at N-519. So you can look  
12 at N, but this is on the first page, N which is on the row --  
13 or Column G on the first line and then 519, the row.

14 Would it help if I approach and --

15 THE COURT: There is no 519.

16 (Pause)

17 THE COURT: Is it -- do it this way. At the very top  
18 it's alphabetical, A through whatever. Is the N on the second  
19 --

20 MR. BECK: The second line, correct.

21 THE COURT: So in -- we're in Row 1, Row Numbered 1  
22 --

23 MR. BECK: Yes. Correct.

24 THE COURT: -- on the left. Okay. So I'm looking at  
25 N, and then you want me to go down --

1 MR. BECK: Correct. To 13.

2 THE COURT: -- to 13.

3 MR. BECK: Row 13. And you'll see 519.

4 THE COURT: Okay. Got it.

5 MR. BECK: So the N and the 519 will correspond to  
6 the actual rows and the actual columns in the QVT workbook.

7 THE COURT: Okay. Okay.

8 MR. BECK: And for future witnesses we're actually  
9 going to remove the outer rows and columns so you will only  
10 have the internal rows and columns.

11 THE COURT: But if I -- I'm sorry. If I only have  
12 the internal then I'm not going to be able -- the way to find  
13 519, the reason I didn't see it at first was because down at  
14 the bottom I was looking numerically. The only way to find the  
15 519 is by reference to the number 13.

16 MR. BECK: Correct. So let me -- so we have also  
17 split it up by the method of calculation. So in the blue rows  
18 you'll see list --

19 THE COURT: Right.

20 MR. BECK: -- replacement --

21 THE COURT: Replacement and Markit.

22 MR. BECK: Markit.

23 THE COURT: Right.

24 MR. BECK: And then on the next page there's  
25 calculation, PCS and other. So the witness will only be within



1 one of those categories at a time.

2 THE COURT: And they --

3 MR. BECK: So --

4 THE COURT: Those will be numerical.

5 MR. BECK: Those are numerical. Correct.

6 THE COURT: I got it. Thank you very much.

7 MR. BECK: Thank you.

8 THE WITNESS: Should I also have a copy? Am I  
9 permitted to have a copy of that or am I just going to work  
10 with --

11 MR. TRACEY: No. You're going to look at the --

12 THE WITNESS: All right.

13 MR. TRACEY: -- at the exhibit.

14 THE WITNESS: Okay.

15 (Pause)

16 MR. TRACEY: Can I --

17 THE COURT: Ready when you are. Yes. Thank you.

18 MR. TRACEY: Thank you.

19 DIRECT EXAMINATION (Resumes)

20 BY MR. TRACEY:

21 Q Good morning.

22 A Good morning.

23 Q We talked about your valuation of PCDS and the CARB  
24 positions yesterday. Today I would like to focus on the other  
25 positions.

1 Did you -- what other positions besides PCDS and CARB  
2 did you value during the September 15th through October 15th  
3 period?

4 A I valued a number of positions on the order of 150  
5 positions, I believe, between QVT and Quintessence. So 75  
6 unique positions if you like. And those were credit default  
7 swaps on corporates for the most part. There were a couple  
8 non-corporates, but for the most part those were corporate  
9 credit default swaps.

10 Q Okay. And can you describe at a high level for the Court  
11 what approaches you took to valuation for those positions?

12 A Yes. In cases where I did a replacement trade I used the  
13 replacement value. In cases when I had a level, a quote from  
14 the market quotation process I would use that level or I  
15 suppose if there were two levels I may have used an average of  
16 the two levels, but I used the information from the market  
17 quotation if I had that.

18 And if there was no such information I would have to  
19 use a different method. For the most part I used Markit to  
20 value the rest of the positions, and for the Markit I had to  
21 apply an estimate of what the bid mid-spread would be in order  
22 to replace the position. And similarly in certain cases I had  
23 to make a judgment about which date on Markit would be the best  
24 representation of replacement value.

25 And, finally, there's a small group of other default

1 swaps that I had to calculate another way.

2 Q Okay. So what I would like to do is ask you to take a  
3 look at Claimant's Exhibit 2108 which you've identified as the  
4 workbook. And if you would please --

5 MR. TRACEY: Can you have the witness drive it?

6 Fine.

7 BY MR. TRACEY:

8 Q If -- I wonder if you could open up the Lehman positions  
9 master tab and filter that just to reflect the positions that  
10 you valued.

11 A Okay.

12 Q And the witness is going to Column --

13 A I guess it -- there's this thing called responsible party.  
14 That looks like it's correct.

15 Q Okay. The witness is going to Column AQ.

16 THE COURT: So for this, Mr. Tracey --

17 MR. TRACEY: I'm sorry.

18 THE COURT: -- do you want me to be --

19 MR. TRACEY: It's BC.

20 THE COURT: -- looking at the screen or at this  
21 demonstrative?

22 MR. TRACEY: I -- either one. The demonstrative --  
23 we're going to go in the order of the demonstrative so I think  
24 it probably has everything you need. There were going to be  
25 some things the witness will refer to that are not on the

1 demonstrative and then --

2 THE COURT: Okay.

3 MR. TRACEY: -- you can look at the exhibit. But  
4 it's up to you. I wanted you to have a -- something on hard  
5 copy if you wanted to refer to it or write on it.

6 THE COURT: Okay. So --

7 MR. TRACEY: But there will be things in the  
8 spreadsheet that will be referred to that are not in there  
9 probably.

10 THE COURT: Yeah, because AQ right off the top is not  
11 on here unless I --

12 MR. TRACEY: Right.

13 THE COURT: So --

14 MR. TRACEY: Right. That's just a filtering  
15 mechanism. I don't think we're going to refer to it after  
16 that.

17 THE COURT: Okay. Mr. Tambe's on his feet.

18 MR. TRACEY: Oh.

19 THE COURT: So --

20 MR. TAMBE: I'm fine with the witness driving the  
21 spreadsheet as long as the witness is telling the record what  
22 he's doing because we may have a disconnect. He -- I'm sure  
23 Mr. Chu knows exactly how to navigate the spreadsheet so he  
24 should be saying, I'm now going here.

25 MR. TRACEY: I was just trying to be --

1 THE COURT: Sure.

2 MR. TRACEY: -- helpful. We -- that's fine with the  
3 --

4 THE COURT: Sure. I mean, this is my ongoing concern  
5 with this being part of our record. So that as much clarity as  
6 we can I think will just make for a record that I can use  
7 afterwards and that you could use after you're done with me.  
8 So --

9 MR. TRACEY: Okay.

10 THE COURT: All right.

11 BY MR. TRACEY:

12 Q So, Mr. Chu, when you are navigating through the  
13 spreadsheet please state what you're doing, and if you are  
14 filtering on a certain column please state what column you're  
15 filtering.

16 A Understood.

17 Q Okay. And so could you go to the column labeled Marked  
18 on. That is I believe Column BC.

19 A Yes. I see it.

20 Q Okay. And then if you could identify the positions that  
21 you marked and state for the record what you're doing.

22 A Yes. So I am in the Cell BC-3 which is the marked by  
23 filter tab and I'm opening the filter and there are various  
24 initials of the traders that did the marks. AC is me and then  
25 there's all the other people like JW, for instance, who is Joel

1 Wohlman.

2 So now I'm going to just check myself.

3 (Pause)

4 Okay. So that gives me the positions that were  
5 marked by me. The Column BC now should only read AC and  
6 nothing else.

7 Q Okay. And --

8 THE COURT: So just -- again, to tie the live  
9 spreadsheet to the demonstrative, now the demonstrative has  
10 only Mr. Chu's positions.

11 MR. TRACEY: Correct.

12 THE COURT: I mean, the demonstrative has only --  
13 only has Mr. Chu's positions and the live document has been  
14 filtered in a way that it matches the positions that I have on  
15 the hard sheet.

16 MR. TRACEY: Correct.

17 THE COURT: Right?

18 MR. TRACEY: With one exception.

19 THE COURT: Okay.

20 MR. TRACEY: And that is that -- go ahead.

21 MR. BECK: What -- so what he has still has QVT and  
22 Quintessence. The sheet only has QVT.

23 THE COURT: Got it.

24 MR. TRACEY: We just did it that way because it's  
25 shorter.

1 THE COURT: I -- that much I get.

2 (Laughter)

3 BY MR. TRACEY:

4 Q Okay. Now what I would like you to do, Mr. Chu, is if you  
5 could filter the spreadsheet one more time I would like to  
6 focus on the positions that you valued using each of the  
7 different methods that you describe one by one.

8 And so what I would like to focus on first is the  
9 positions that you valued using replacement trades.

10 A Okay.

11 Q So if you could filter that spreadsheet to limit it only  
12 to replacement trades and tell the Court what you're doing.  
13 You might want to try BP.

14 (Laughter)

15 A Okay. So I'm in Cell BP-3 right now. And there is four  
16 different categories of the way things were calculated:  
17 Calculation list, Markit and replacement. So I'm going to  
18 select only the replacement items.

19 Okay. So the filter is done.

20 Q Okay. And would you describe now what is up on the  
21 monitor? What universe of positions is on the monitor?

22 A So this is the universe of positions that I did  
23 replacement trades on. In the lower left-hand corner of the  
24 screen you can see it says, 38 of 796 records found. So that  
25 means that the number of replacement trades here is 38 between

1 QVT and Quintessence or 19 if you just looked at QVT.

2 Q Okay. So what I would like you to do now is if you could  
3 look at the first trade that you valued using the replacement  
4 approach, identify it by row number.

5 A Yes. I'm in Row Number 508.

6 Q Okay. And it -- does that have a related QVT Fund  
7 position?

8 A Yes. The QVT Fund position is in Cell B as in Boy 508.  
9 It is the ty-fi MTG 120620\_DS27.bang. That is a default swap  
10 maturing June 20th, 2012 on the credit NGIC.

11 THE COURT: I hate to be annoying, but --

12 MR. TRACEY: It's 509.

13 THE COURT: It's 509. It's not 508. Okay. So now  
14 I'm really confused.

15 MR. TRACEY: I am, too. I don't know we've got --

16 MR. TAMBE: I'm sorry. One other slight issue. I  
17 think yesterday we discussed with Mr. Wohlman the blue columns  
18 --

19 THE COURT: The --

20 MR. TAMBE: -- were added some time later.

21 THE COURT: The -- okay. On --

22 MR. TAMBE: The columns that have the blue headings,  
23 that's where we were.

24 THE COURT: Right. But the -- on my sheet I have  
25 baby blue and I have --



1 MR. TAMBE: Oh, it's the --  
2 THE COURT: -- royal blue.  
3 MR. TAMBE: It's the darker blue --  
4 THE COURT: The darker blue.  
5 MR. TAMBE: -- at the top.  
6 THE COURT: Adjust reason, further adjust reason --  
7 MR. TAMBE: Yes.  
8 THE COURT: Okay.  
9 MR. TAMBE: Yes.  
10 THE COURT: So what's the issue on that?  
11 MR. TAMBE: I'm not sure if those are -- I'm seeing  
12 columns line up here which have the blue heading and I thought  
13 the witness was in one of those.  
14 MR. TRACEY: You know --  
15 MR. TAMBE: And use that to do the filtering.  
16 MR. TRACEY: Let's try again next time. Let's work  
17 in the spreadsheet and we'll make it clearer. Apologies.  
18 THE COURT: Okay.  
19 MR. TAMBE: That's fine. But my blue objection -- my  
20 blue objection still stands because that's not where the sheet  
21 was as we understand it on October 15th, 2008.  
22 MR. TRACEY: But that's not the purpose of this  
23 exercise.  
24 THE COURT: Okay. I'm sorry. Now that I'm not  
25 focusing on the sheets anymore could you state the objection --

1 MR. TAMBE: The objection --

2 THE COURT: -- the concern or the question again with  
3 the blue?

4 MR. TAMBE: So the question again with the blue is  
5 basically --

6 THE COURT: Okay. Mr. Chu, could you drive the  
7 spreadsheet across to where Mr. Tambe --

8 THE WITNESS: Sure.

9 THE COURT: -- seems to be talking about.

10 MR. TAMBE: Yeah. Columns heading that begin right  
11 there --

12 THE COURT: Okay.

13 MR. TAMBE: -- which is B -- I think it begins with  
14 BF. I'm just looking at my screen to see where the blue  
15 coloring begins. Oh, no, it's not.

16 THE COURT: Yeah.

17 MR. TAMBE: So it's BF.

18 THE COURT: BF.

19 MR. TAMBE: Right.

20 THE COURT: Right.

21 MR. TAMBE: My understanding based on Mr. Wohlman's  
22 testimony yesterday was that the blue columns were added to the  
23 spreadsheet after -- some time after 10/15/08. This is not  
24 part of what went in to preparing the calculation statement.  
25 September of 2009 is what I understand his testimony --

1 THE COURT: Okay.

2 MR. TAMBE: -- was yesterday.

3 THE COURT: Mr. Tracey agrees with you.

4 MR. TRACEY: Yes. I --

5 MR. TAMBE: Okay.

6 MR. TRACEY: -- I totally agree with that.

7 THE COURT: Okay.

8 MR. TRACEY: This was never -- this was -- this is  
9 the current claim. So the witnesses are going to describe what  
10 the current claim is and they're going to describe what they  
11 did between October -- September 15th and October 15th from a  
12 methodology standpoint to get to that claim, and then those  
13 numbers were adjusted between October --

14 THE COURT: Right.

15 MR. TRACEY: -- 15th --

16 THE COURT: So this isn't going to be offered in  
17 support of the reasonableness of any of the calculations with  
18 respect to the positions. This is going to be evidence of what  
19 the claim is now only.

20 MR. TRACEY: No.

21 THE COURT: No?

22 MR. TRACEY: That's not true.

23 THE COURT: Okay.

24 MR. TRACEY: So --

25 MR. TAMBE: Actually, can we do this, if it's

1 possible, if I may, outside the presence --

2 THE COURT: Yeah.

3 MR. TAMBE: -- of the witness?

4 THE COURT: Sure. Okay. Okay.

5 THE WITNESS: So should I leave or what should I do?

6 THE COURT: No. No. I think every -- why doesn't  
7 everybody stay in place? We'll just go have a conversation  
8 since other testifying witnesses are here as well.

9 (Recess taken at 10:38 a.m.; reconvened at 11:08 a.m.)

10 THE COURT: All right. Mr. Chu, thank you very much  
11 for your patience. We're going to try to keep going and pick  
12 up the pace if at all possible.

13 DIRECT EXAMINATION (Resumes)

14 BY MR. TRACEY:

15 Q Okay. Could you turn back again, please, to Claimant's  
16 Exhibit 2108?

17 MR. TAMBE: Yes. I was wondering if --

18 MR. TRACEY: What -- I thought we were putting  
19 stuff on the record?

20 THE COURT: We are putting something on the record.

21 MR. TRACEY: Oh, yes.

22 THE COURT: Okay.

23 MR. TRACEY: So, I'll start and --

24 THE COURT: Sure.

25 MR. TRACEY: And Mr. Tambe can correct --

1 THE COURT: So, the context is the continuing  
2 discussion between counsel regarding the appropriate scope and  
3 use and understanding of how this spreadsheet is being used.  
4 Okay.

5 MR. TRACEY: And I'll just try to summarize what we  
6 discussed off the record.

7 The spreadsheet, as the testimony has shown, is a  
8 spreadsheet that includes information, both from prior to  
9 October 15th, 2008 and after October 15th, 2008 and the  
10 witnesses will be asked to testify about what was before and  
11 after October 15th, 2008 and the testimony will be what it will  
12 be.

13 The spreadsheet is being -- is being offered as  
14 documentation of what the witnesses did at the time that they  
15 did this work. It is not being offered for the truth of the  
16 matter asserted. But solely to document the work that was  
17 done, both between September 15, 2008 -- October 15th, 2008 and  
18 afterwards.

19 And, to that extent, we believe that it is powerful  
20 evidence corroborating what they did. But it is not being  
21 offered for the truth of the statements in the spreadsheet.

22 THE COURT: Okay. Mr. Tambe.

23 MR. TAMBE: That's almost all consistent with my  
24 understanding of our discussion except the formation that it is  
25 being offered for -- as a documentation of what the witnesses

1 did at the time. I assume the witnesses will --

2 THE COURT: But only to the extent that it is --  
3 reflects or refers to pre-October 15th matters.

4 MR. TAMBE: I think that's right. I mean, I think  
5 more broadly speaking our view is --

6 THE COURT: And --

7 MR. TAMBE: -- it is hearsay and not being offered  
8 for the truth of the matter asserted.

9 THE COURT: Correct. All right.

10 And I think that we're just going to let the record  
11 be filled out and that you'll be able to argue for whatever  
12 inferences or lack thereof you think the testimony supports.

13 MR. TAMBE: That's right, Your Honor.

14 THE COURT: All right. Go ahead.

15 MR. TRACEY: Thank you, Your Honor.

16 DIRECT EXAMINATION (Resumes)

17 BY MR. TRACEY:

18 Q Okay. If we could go back to Exhibit 2108 just to  
19 reorient ourselves again, am I correct that you have filtered  
20 this spreadsheet to show only the positions that you valued  
21 using the prices of replacement trades that were actually done?

22 A That's correct.

23 Q Okay. And there are 38 such positions?

24 A Correct.

25 Q Okay. So, what I'd like you to do then, please, is to

1 start with the first one and explain to the Court what position  
2 existed that was terminated as a result of the termination of  
3 the ISDA agreement and how you valued that position.

4 A Okay. So, I'm in the tab Lehman Positions Master and  
5 we're starting with the first entry which is a replacements  
6 trade. And this is in Cell B-508, MTG, 120620\_DS27.bang (ph).

7 The quantity, that is to say the notional of the  
8 trade is \$11,590,000 U.S. and this trade was -- well, let me  
9 just say one other thing that the strike of the -- or the  
10 coupon of the CDS as is shown in Column L -- Cell L-508 is 78  
11 basis points.

12 So, anyhow, so, that is the instrument that was  
13 terminated and this was replaced -- I'm now referring to Column  
14 AD508 -- Cell AD-508. Generically, this area of the sheet is  
15 any time one didn't use the Markit data, we would -- we could  
16 note a reason why you didn't use it. And Column AD notes a  
17 replacement value of 29.789 approximately, which I can show you  
18 the source data on in a moment.

19 The way this translates then further into the claim  
20 is if we go into Column AL and we examine Column AL-508.  
21 You'll see that there is a Mark of 29.79, that's the  
22 replacement value we were looking at a moment ago.

23 And the amount of the claim then is equal to this  
24 market value column, which is Column A -- the valuation of it  
25 is equal to Column AO which is equal to 29.79 times this 11.59

1 million figure.

2 Q Okay. And you said that this was based on a replacement  
3 trade. Would you identify what replacement trade that was and  
4 any documentation there is of that replacement trade in the  
5 spreadsheet?

6 A Yes. So, I -- you'll notice that in Column A, all of  
7 these replacement trades happen to be in the account called MI,  
8 mortgage insurers, and I recorded all of the replacement trades  
9 that I did in a tab over here on the right. And the name of  
10 the tab is MI Data and I'm going to go to that tab now.

11 Okay. So, what I did is I -- the name of the ty-fi  
12 that we were looking at before is this thing MTG 120627 -- oh,  
13 it's at 120620\_DS27 and, right now, I'm looking in Cell B-69 of  
14 the tab MI Data and you can see it's the same ty-fi, the same  
15 contract.

16 It has the same strike of 78 basis points as before.  
17 It also has the same quantity which you can see in cell F-69 of  
18 this tab, of \$11,590,000.

19 So, what I was doing here is this is a -- this tab is  
20 a compilation of all of the CDS's that we had facing Lehman  
21 Brothers, LBSF DC in Cell C-69 that were terminated. And, just  
22 for convenience, I color coded the ones with this light green  
23 color that -- that I replaced.

24 So, moving from left to right in the spreadsheet, you  
25 can see there in Column P as in Patrick, if you go up to the



1 very top of the spreadsheet, Cell P-1, there's a header that  
2 says; replacement ty-fi. That is the CDS that I used to  
3 replace the CDS over on the left. So, in this case, this  
4 particular default swap, in Cell B-69, MTG 120620 DS27 was  
5 replaced with a new credit default swap equal to what's shown  
6 in Cell P=69, that is MTG 120620\_DS71.bang.

7 So, that's the new -- the new instrument that we  
8 traded. You can see that it has a 6/20/2012 maturity, the same  
9 as the old instrument. What's different about it is you can  
10 see in Column R, that's labelled Spread. So, instead of having  
11 a 0.78 percent coupon -- just let me just go back here.

12 So, the old contract of 0.78 coupon, or 78 basis  
13 points, this has a 500-basis point coupon.

14 And the amount that I paid to enter into the trade is  
15 in the Column Q called Points. So, I paid 18.75 points; that  
16 is to say, 18.75 percent of the notional value in order to  
17 replace this trade.

18 So, there's one last step that one has to do in order  
19 to calculate the replacement value in this case. The two  
20 contracts are the same except they have different coupons. So,  
21 what I do here is in Column P, I'm converting the value, 18.75  
22 points plus 500 running into an equivalent spread of 1,207.9  
23 basis points. That's in Column T, Cell T-69.

24 And, in order to do that, you need to assume a  
25 recovery value. I assumed 30 percent which was the -- of the

1 market and the Markit recovery value that's at that time.

2 So, what that gives me is I can use a standard CDS  
3 calculator and I can basically value the difference between  
4 that 78-basis point spread and that 500-basis point spread and  
5 that value is 29.79.

6 So, anyhow, so, then, that's -- that's the value that  
7 goes into the spreadsheet. So, you see this number in Cell U-  
8 69 29.7898309. Let's just go back to the other sheet and make  
9 sure that ties up.

10 Okay. So, there's that number 29.7898309.

11 Q And that's back in the Lehman Positions Master at --

12 A Yes. I'm back in Lehman's Position Master Sheet, Cell AE-  
13 508, just confirming that the data is the same in both sheets.

14 Q Okay.

15 THE COURT: Can I ask one follow up question?

16 THE WITNESS: Yes.

17 THE COURT: Where on the sheet can you tell the date  
18 of the replacement? Is that -- can that be inferred from  
19 anything?

20 THE WITNESS: I'm not certain that it's in the sheet  
21 itself. Let me see.

22 THE COURT: There was -- when you were back in the  
23 other sheet --

24 THE WITNESS: Yeah. Let's -- let's take a quick  
25 look.

1 THE COURT: Right.

2 THE WITNESS: Yeah.

3 THE COURT: And then all -- see, all the way in V and  
4 U, V and W, you've got --

5 THE WITNESS: Yeah. This is some extra data.

6 THE COURT: So, if there's -- if you go back to  
7 V --

8 THE WITNESS: Yes.

9 THE COURT: -- damage of extra date and there's a  
10 zero; is that a (inaudible) --

11 THE WITNESS: Oh, no. Yeah. Sorry. I didn't  
12 explain that part of it.

13 So, what that -- the purpose of that cell is  
14 basically that occasionally I could not trade the exact date  
15 that I wanted to trade.

16 THE COURT: You mean the tenor?

17 THE WITNESS: The exact header of the CDS. And, so,  
18 the purpose of these columns is to make an adjustment for that.

19 THE COURT: (Inaudible).

20 THE WITNESS: That's something different.

21 But, I mean, I can tell you from memory that -- and  
22 then we can -- I'm sure it's in the record, that there are 16  
23 default swaps in this MI, out of 16 out of 19 that I replaced  
24 on the 15th, two were on the 16th and one was on the 18th.

25 BY MR. TRACEY:

1 Q Can you, as long as we're on that subject, identify the  
2 replacements that were done on the three dates that you  
3 described? Are you able to do that?

4 A I can't do the 16th ones from memory, no. I think that --  
5 I think this last one down here, from memory, was done on the  
6 18th. But I would really have to go back and look at the trade  
7 records to be certain.

8 Q Okay. So, if we could go to -- well, my first question  
9 is, there is a -- there is a position on the spreadsheet.  
10 Could be look at the master spreadsheet, please?

11 A Yes. Okay.

12 Q Okay. And, so, you were just describing the process for  
13 valuation of Row 508.

14 A Uh-huh.

15 Q Is that correct?

16 A Correct.

17 Q Okay. And below that is Row 509 which has a ty-fi which  
18 is identical to the first one but has a Q after it; is that  
19 correct?

20 A Yes.

21 Q And could you describe what that position is?

22 A That position is the quintessence default swap. So, the  
23 DS27.bang is QBT's portion and the -- generically, everything  
24 with a little Q.bang in here is going to be quintessence,  
25 including this particular ty-fi.

1           And you can see the ratio is, you know, roughly one  
2       to ten or one to nine or something like that. In Cell C-508,  
3       it's 11.59 million. In Cell C-509, it's approximately 1.31  
4       million, which is the expected ratio.

5       Q     Okay. And did you follow any particular practice with  
6       regard to whether you valued the QBT fund positions the same or  
7       different from the quintessence positions?

8       A     They should all be exactly the same just the quantity is  
9       different.

10      Q     Okay. And does that apply to all of the replacement trade  
11     positions?

12      A     Yes, it would -- it applies to all of the replacement  
13     positions.

14      Q     And does it apply to all of the positions in value?

15      A     Yes. It should apply to all of the positions that we  
16     valued.

17      Q     Okay. All right. So, you've described the process for  
18     determining a loss based on replacement trade for Column 508.  
19     Are there other positions on this list, among the 38 that we've  
20     isolated here, that were valued in the same way? And by what  
21     -- what I mean by that is if you went through the same process  
22     that you've just described, and what that the same columns  
23     would the same valuation method apply?

24      A     To make sure I understand your question, I understand this  
25     to mean what we just did; so, we looked at this one single ty-

1 fi, MTG 120620 DS27 and we went through and we went to this  
2 other tab called MI Data, and we made sure that -- when we  
3 looked at the replacement cost and we -- going to figure out  
4 the source of this number, 29.7838. And, if your question is;  
5 are these that are labelled replaced, should I be able to find  
6 them in the MI tab, and does data tab and does it work the same  
7 way, the answer is; yes.

8 Q And there was one adjustment that appeared not to apply to  
9 Row 508 that applied to other positions in your MI Data  
10 spreadsheet tab for different tenors.

11 A That's correct.

12 Q And, so, would you, please, identify a position on this  
13 spreadsheet that involved replacement of the position with a  
14 replacement trade of the same underlying but a different tenor  
15 and take us through the calculations.

16 A Okay. Okay. So, for example, here. I'm -- okay. So,  
17 I'm back in the MI Data tab and I'm looking at Cell P-84 and  
18 Cell B-84.

19 So, going to B-84, first, that's -- this default swap  
20 called MTG 120920\_DS37 and that is a \$4.11 million notional  
21 position.

22 Moving across to the right of the spreadsheet into  
23 Column P and looking at Cell P-84, this was replaced by a  
24 different default swap, MTG 130920 DS74. And, in this case,  
25 what's different about the two contracts is not just that they

1 potentially had different strikes. You can -- the old ty-fi  
2 had a -- in Cell D-84, a 2.10 percent strike or coupon. But,  
3 also, the new replacement trade does not have the same tenor or  
4 maturity. The old replacement trade, as its name implies, had  
5 a maturity of 9/20/2012. This new contract had a maturity of  
6 9/20/2013.

7 So, the exercise is largely the same except that what  
8 I did, as I said, well, I didn't really need that extra year of  
9 protection. What extra did I pay for that? And that's  
10 summarized in this cell column, excuse me, Column W called  
11 Damage of Extra Date. And there are various screen shots that  
12 I saved that kind of go through these calculations in detail in  
13 terms of the Bloomberg calculator.

14 But, ultimately, the total damage just basically  
15 includes this damage of the extra date and this works out to be  
16 33.79.

17 And, just for completeness, I would note that if you  
18 look down below that damage of the extra date could be positive  
19 in certain cases in which I bought CDS that was longer than the  
20 CDS I used to have. But if you look down below, for instance,  
21 now, I'm in Row 105, and I'm looking at Cell W-105. That's a  
22 case in which the damage is actually negative, meaning I  
23 reduced the claim and the reason for that is because if you  
24 look over here, the original ty-fi that I was replacing in Cell  
25 B-105 was MTG 140320. So, it's a 3/20/14 date. But I replaced

1 it with a shorter date, 9/20/13, September 20th, 2013.

2 So, that's just to say that the effect is -- it kind  
3 of goes both directions. It can either increase or decrease  
4 the claim. It's just an adjustment for what the date that was  
5 created was versus the actual thing you were trying replace  
6 because you couldn't always trade the perfect date.

7 So, anyhow, coming back to Cell X-84, we have this  
8 number, 33.791379 which is the final number. I apologize. We  
9 have the set number, 33.791379 which is the number that results  
10 from all the calculations including the date adjustment. And,  
11 in fact, when we come back to the -- now, I'm back in the  
12 Lehman Positions Master spreadsheet. Again, you see that the  
13 Cell AD-518 ties out with that number at 33.79.

14 Q Thank you.

15 Now, we've talked about the adjustment you made for  
16 certain positions for differences in the coupon amounts,  
17 correct?

18 A Yes.

19 Q And we've talked about an adjustment you made to certain  
20 positions because the replacement had a different tenor,  
21 correct?

22 A Yes.

23 Q Among all the replacement trades, were there any other  
24 unique adjustments, any other adjustments that were made other  
25 than those two adjustments in order to arrive at your final



1 price?

2 A I don't believe so. But let me just be sure by looking at  
3 the MI Data tab, please.

4 No. I think that covers it.

5 Q Okay.

6 A Okay.

7 Q Now, let's talk about the dates on which the replacement  
8 trades were entered.

9 A Okay.

10 Q I think you had testified earlier that 16 of the 19 were  
11 entered on September 15th; two were entered into on the 16th  
12 and one was entered into on the 18th of September, 2008; is  
13 that correct?

14 A I think that's correct, yes.

15 Q Okay. And would you describe for the Court why you  
16 replaced these positions on the dates that you did?

17 A Okay. Well, I mean, as you can see, in terms of the  
18 positions that I actually replaced, there was sort of a  
19 somewhat concentrated effort to replace a very specific set of  
20 positions in these two names, PMI and MTG.

21 I think in the case of PMI, that was something that I  
22 prioritized. It was a credit I didn't like. I wanted to  
23 continue to be short it and I started trading it very early in  
24 the morning. I started off, I think, at five thirty in the  
25 morning, doing a replacement trade of \$2 million with UBS

1 which, ultimately, was upsized into a \$5 million trade.

2 And, continuously, throughout the day, I was  
3 continuing to replace that credit until I was basically done  
4 doing all the replacements that I wanted to do. I think  
5 actually if you look at the replacements notionals, it kind of  
6 -- I replaced everything I had. I mean, netting out the longs  
7 and shorts of (indiscernible). I think I replaced everything  
8 or materially everything.

9 In the case of MTG, it was a similar process. It  
10 just, you know, maybe rather than starting at five thirty in  
11 the morning, it started a little bit later in the day and I  
12 just started trading and trying to replace the positions  
13 throughout the course of the day.

14 And I just did a number of replacement trades during  
15 that day. I did a couple more on the 16th until most of the  
16 positions were placed. I think later in the week, on the 18th,  
17 the -- that the price of protection actually had dropped a bit.  
18 And, so, I just replaced a little bit more on the 18th.

19 Yeah. So, that was kind of the sequence, the  
20 sequence of events.

21 Q And, so, just taking the trade on the 18th, the fact that  
22 you replaced it three days later resulted in a lower claim in  
23 this case?

24 A Yes.

25 Q And just on the subject of your trading on September 15th,

1 you talked about starting trading at four thirty in the  
2 morning. Can you give the Court a sense of what trading you  
3 were doing that day and how it compared to other days?

4 A Okay. Sure.

5 So, it was a really busy day. And I started off at  
6 four thirty in the morning. My first trade was I actually sold  
7 protection on Merrill Lynch because I had a lot of Merrill  
8 Lynch protection and they had just been taken over by Bank of  
9 America. So, having been through the very difficult short  
10 squeeze after Bear Stearns, I wanted to off load some of that  
11 protection.

12 I also bought some protection on a European Index  
13 Call -- the main index. And, then, I started entering into  
14 these replacement trades and, I think, the number of trades  
15 overall that I did in that day, I think I did 33 trades that  
16 day. And, just to be clear, in terms of what I call a trade, I  
17 call a single trade one that actually winds up appearing as two  
18 or three trades if there are separate accounts.

19 So, I wouldn't call quintessence and QBT separate  
20 credits. I would -- so, really, I guess, in the language of  
21 this document, it would be 66 trades or something like that.

22 But I call each trade just -- I don't think of it by  
23 client. It's just a trade.

24 Anyhow, so, of those trades, I think 32 of the trades  
25 were CDS trades. So, almost everything I traded that day was

1 CDS. And, I think, I mentioned I did these 16 replacement  
2 trades in MTG and PMI.

3 But I also did certain other replacement trades in  
4 CDS of -- that faced Lehman. It just so happens that it wasn't  
5 the QBT fund that what was the counter-party and the reason for  
6 that is that we have certain of these cases in which we owned  
7 both bonds as well as credit default swaps.

8 But the bonds were prime brokerage at, in this case,  
9 at Deutsche Bank and in order to minimize the margin that we  
10 would have to post, rather than Deutsche Bank, QBT owning the  
11 default swap, Deutsche Bank held the default swaps.

12 So, Deutsche Bank was basically taking the risk on  
13 both the bond and the CDS together as a package, they wanted  
14 them sort of both in their hands so to speak.

15 And the -- a lot of the trading that I did that day  
16 was trying to replace that CDS that had been lost because we  
17 had these positions that we used up formerly were low risk  
18 positions, a bond plus a CDS together typically is thought of  
19 as a relatively low risk position. But the CDS was gone. So,  
20 I had to go out and try to buy that CDS. So, I also did six  
21 replacement trades in this -- these bond CDS basis trades. It  
22 just so happens that those CDS's weren't facing the QBT fund  
23 that day.

24 And, then, I mean, I would say, in general, it was a  
25 market in which it was -- you just had to trade off in small

1 size to discover where the market was and, for example, in one  
2 of the PMI trades I did with Barclays. I bought two million at,  
3 I think, at twenty-four and then I bought another three million  
4 at twenty-eight. So, you know, a few minutes later. So -- but  
5 the market was all over the place. That's a huge move for a  
6 CDS in a small period of time.

7 And we kind of wrapped it all into one trade. So,  
8 actually inside some of these \$5 million trades, there are  
9 actually little trades that I had to do to kind of bunch them  
10 together to make, you know, one single trade.

11 Q And, so, just to give us a sense of the context, you said  
12 there were 33 trades which had sub-trades in them; how does  
13 that amount of trading compare to other days, generally?

14 A It was a lot of trading. I mean, I think that -- like I  
15 think maybe the whole week before, I did on the order of 50 or  
16 60 trades during the whole week. So, it was busy; very, very  
17 busy.

18 Q Okay. I'd like to turn now to the --

19 THE COURT: Can I ask a question.

20 MR. TRACEY: Sure.

21 THE COURT: So, were these -- I'm trying to visualize  
22 the trade.

23 THE WITNESS: Yeah.

24 THE COURT: So, were these initiated by a Bloomberg  
25 message, Bewick Owick (ph) followed by a phone call? Can you

1 just describe --

2 THE WITNESS: Yes.

3 THE COURT: -- for me, you're going to trade --

4 THE WITNESS: Sure.

5 THE COURT: -- seek to trade a position; what did you  
6 do?

7 THE WITNESS: Yeah. So, it would often be by  
8 Bloomberg where I would send somebody in Bloomberg that --  
9 okay. Let me just step back for a second.

10 So, this was not a Bewick Owick process. So, I  
11 didn't try to go out --

12 THE COURT: It was not a Bewick Owick process?

13 THE WITNESS: No.

14 THE COURT: Okay.

15 THE WITNESS: I mean, it was not where I said; okay.  
16 I've got --

17 THE COURT: Yep.

18 THE WITNESS: -- in a B, 16 positions blast out to  
19 full dealers. Respond to me --

20 THE COURT: Okay.

21 THE WITNESS: -- by this time. Not -- it wasn't like  
22 that.

23 THE COURT: Okay.

24 THE WITNESS: It was like one by one.

25 THE COURT: One by one to a dealer?

1 THE WITNESS: To a dealer. It would be common in a  
2 normal market to maybe, so to speak, do a mini Bewick Owick  
3 where you've got the two people at one time and you say; okay.  
4 I want to buy 92013 MTG, where are you? Like, I want to buy  
5 9/20/13 MTG at five million, offer it to me. And they would  
6 come back.

7 I didn't feel like that was a good way to do it. The  
8 market was so fast. So, I just engaged each dealer at a time  
9 and I think your question is how did you engage them.

10 THE COURT: Right.

11 THE WITNESS: So, it wasn't through a blast process.  
12 I would send them a Bloomberg or I would call them on the  
13 telephone; often just a one line Bloomberg, saying; where can  
14 you offer PMI? And maybe UBS, for instance, would say --

15 THE COURT: Uh-huh.

16 THE WITNESS: -- I can offer you two million at  
17 24.25. And I'd say; done.

18 THE COURT: (Inaudible) Bloomberg (inaudible) got  
19 done.

20 THE WITNESS: And that Bloomberg back, done on two  
21 million. And then maybe he would say; do you want to work  
22 more? I would say; yes. I'll work three million at the same  
23 level. And, you know, ultimately, he would come back in, I  
24 don't know, 30 minutes, however long it took --

25 THE COURT: Okay.

1 THE WITNESS: -- and say; okay. Done. Five million  
2 on the day at 24.25; something like that.

3 THE COURT: Great.

4 THE WITNESS: Okay.

5 THE COURT: Thank you.

6 BY MR. TRACEY:

7 Q Okay. Back to 2108. Would you unfilter what you filtered  
8 on replacement trades and filter the spreadsheet to show those  
9 trades that you valued according to market quotations and,  
10 please, describe, for the Court, as you move through the  
11 spreadsheet what you're doing?

12 A Okay. Okay.

13 So, I'm going to be back on this Column BP and I'm going  
14 to change the filter from replacement to list.

15 Okay. So --

16 Q Okay. And how many positions appear in the spreadsheet  
17 according to list?

18 A Yes. In the lower left hand corner of the screen, it says  
19 10 of 796 records found. So, there are 10 such positions.

20 Q And is that the number of positions that you valued using  
21 the market quotation responses that you received?

22 A Yes. I failed to clarify that. The phrase, list, here is  
23 shorthand for what we got back on the market quotation.

24 Q And, just to be clear, are these positions where you did  
25 not receive three or more market quotation responses?



1 A Yes. They're positions where we received a response back  
2 but not three responses back.

3 Q Okay. And did you follow the approach that if you -- if  
4 it failed the market quotation process and there was no  
5 replacement trade that you used the list approach?

6 A I did with one exception where I made a clerical error  
7 that I just didn't see the list level which I'll point out when  
8 we get to the list.

9 Q Okay. So, if you would not start with the -- so, there  
10 are ten positions here you said? Is that five for QBT fund and  
11 five for quintessence?

12 A That's correct.

13 Q Okay. And -- so, I -- I don't want to focus on both. I  
14 want to focus on just one. You can choose it. Let's do QBT  
15 fund maybe? And if you could start from the top and take us  
16 through how you valued that position using the market  
17 quotations you received, stating which column you're referring  
18 to and what your approach was.

19 A Okay.

20 Q And, by the way, I just want to make clear that I only  
21 want you to respond with respect to what you did; what you saw;  
22 and what you thought between September 15th and October 15th,  
23 2008.

24 A Understood. Thank you.

25 Okay. So, just kind of going through the mechanics

1 again where on the tab, Lehman Positions Master, we're in Row  
2 70, and I'm looking at the Cell B-70, which identifies the  
3 default swap, AMR, American Airlines, 091220DS21. So, this is  
4 a default swap on American Airlines.

5 In the quantity of Cell C-70, \$900,000 and the strike  
6 or coupon in Cell L-70 is five percent, 500 basis points.

7 So, I think what I should do -- let me do just one  
8 more thing. Let me look at what the replacement value would be  
9 according to this. So, I'm looking at Cell AD-70 and you can  
10 see the value is 16.0277. So, round it to 16.03. And when we  
11 move over to the result area, in Cell AL-70, it's 16.03.

12 So, now, let's just see where that comes from. So,  
13 there should be a sheet in here -- okay.

14 So, I'm going to go to a tab, pretty far on the right  
15 of the spreadsheet. It's called Corporate List. And, okay,  
16 what this tab is, is this is basically a compilation of results  
17 of the market quotation that we received from dealers. So --

18 Q Can I just interrupt you for one second?

19 A Please.

20 Q Is that the market quotation that was sent out on  
21 September 15th?

22 A That's correct.

23 Q Go ahead.

24 A So, maybe it would -- for the sake of efficiency, it would  
25 help to just spend a second on what the format is before we

1 dive into finding this particular AMR trade.

2 So, what this is, is this is just a list of all these  
3 different default swaps. The entity, the maturity, the strike.  
4 I'm in Row 2 now. The notional -- we happen to list the sector  
5 so it's easier to break up by trader. Notes is if it's not a  
6 regular kind of CDS. For example, you can see in Cell F-17, it  
7 says, LCDS. That's a CDS referencing a loan rather than a  
8 regular bond.

9 And, then, it -- on Cell IQ, it says B/O that tells  
10 you whether it's a Bewick or an Owick meaning were we asking  
11 for a bid on protection or were we asking for an offer on  
12 protection. That's just a shorthand for dealers.

13 Then, the results in Columns K through R are the  
14 results that we got back from the individual dealers. So, for  
15 example, you can see in Cell K-1, it says UBS. So, that's what  
16 we got back from UBS.

17 And the heading K-2 says quote. And the Column L is  
18 a note. That's not a note that we put in. That's a note that  
19 the dealers put in. And, similarly, Columns M and N are Morgan  
20 Stanley; O and P are Barclays and Q and R are JPM.

21 So, just to decipher what these numbers mean, as an  
22 example, I'm looking at Cell K-4 right now. The quote that we  
23 got from UBS on this credit DRI is 185 basis points and they  
24 happen to have a notation that says; axed; which, in dealer  
25 talk, means I want a credit, meaning this is a trade I want to

1 do.

2 So, anyway, let's trade to find this AMR trade now.

3 Okay.

4 So, what we were looking for is we were looking for  
5 an American Airlines default swap maturing in 122009 with a  
6 500-basis point strike in an amount of \$1 million.

7 Q What row are you on?

8 A Excuse me. I'm on Row 230 and the data I just read you  
9 was from Columns A through D. So, A-230 identifies it as AMR,  
10 B-230 as December 20th, 2009, C-230 as a 500 strike and D-230  
11 as a million dollars.

12 And it's a million dollars not -- which is the sum of  
13 the QBT and quintessence pieces because they're traded pro  
14 rata.

15 And you can see it says Owick, meaning we want an  
16 offer. And, in this case, I'm now going to sell M as in Mary  
17 230 and there's the number 17.25 and there also happens to be  
18 the notation, axed, in this case; meaning Morgan Stanley  
19 actually wants to offer that protection to us or that's what I  
20 understood it to mean.

21 So, one more thing. It's understood here that 17.25  
22 is not in basis points; 17.25 is in points up front. So, in  
23 dollars, that would be 17.25 percent of a million dollars or a  
24 \$172,500.

25 Okay. So, now, let me go back to the main sheet and

1 kind of tie this all out.

2 Q So, you're going back to the Master Sheet?

3 A I'm going back to the Master sheet now. Okay.

4 So, let's come back to our default swap here. So,  
5 there's this AMR 091220 DS21 and from the previous sheet we saw  
6 that the level that Morgan Stanley gave was 17.25. However,  
7 the particular mark in this case is 16.03, which is not the  
8 same number and you might ask yourself; why isn't it the same  
9 number? And the reason is because it's basically Morgan  
10 Stanley is giving us a so-called clean price and 16.03 is a  
11 dirty price.

12 If you just do the math, it's, basically -- this is a  
13 500-basis point contract, interest accrues four times a year  
14 and the next coupon date would be September 20th, 2008. So,  
15 you're very close to having a quarter of a year. So, it should  
16 be very close to 17.25 minus a quarter of 500; i.e., you should  
17 be very close to 16, which it is, it's -- the exact number is  
18 the 16.03. But that's why the numbers don't tie up the same  
19 way they did in the other sheet.

20 Okay. That was my laborious explanation of this  
21 default swap.

22 Q Thank you.

23 So, the mark -- the ultimate mark that you derived  
24 from the market quotation was 16.03?

25 A Correct.

1 Q And how does that translate into a loss calculation?

2 A Oh, yes. So, this is in the Column AO. So, the 16.03  
3 times the quantity of \$900,000 equals the market value of  
4 \$144,250 in this case.

5 Q Okay. Thank you.

6 A And that is in Cell AO-70.

7 Q Thank you.

8 Okay. If you could go to the second position on that  
9 list, the second unique position, not the quintessence  
10 position, and take us through that calculation.

11 A Okay. So, I'm looking at Cells A-72 and B-72 in Lehman  
12 Positions Master. This is the account AMR ETC and this is the  
13 default swap AMR 09 -- excuse me, AMR-100920 DS19. So, a \$1.53  
14 million default swap. I'm sorry. Where did my mouse go? Oh,  
15 here it is. Okay. Okay.

16 And, once again, it has a five percent strike. So,  
17 let's just quickly go to the other sheet and see if we can find  
18 that trade.

19 Okay. So, here it is underneath the other one. Now,  
20 I'm in the Corporate List sheet. I'm in -- looking at Row 231  
21 and the Cells A-231 through D-231 show that this is a 9202010  
22 default swap with a 500 strike in the amount of \$2 million.  
23 The Cell I-231 identifies this as an offer wanted and the price  
24 that is given in this case is 30 points, 30 percent. And it  
25 happens to have the notation, axed.

1           So, returning to the main sheet, I'm now back on  
2   Lehman Positions Master and I'm looking at Cell AL-72 and you  
3   can see the mark is 28.78 which differs, again, from 30 by very  
4   close to 1.25 percent, again, for the reason of accrued  
5   interest. And the way that that rolls up into the valuation is  
6   in Cell AO-72, 440,000 is equal to the quantity 1.53 million  
7   times the mark of 28.78 percent.

8   Q     Thank you.

9           Now, in both of those cases, I noted that there was a  
10   single -- a single market quotation that was received by QBT in  
11   response to the mark quotation process. Were there any  
12   positions where you received two market quotations?

13   A     Yes.

14   Q     Would you take us through the calculation of how that  
15   worked?

16   A     Okay. So, I'm returning back to the tab Corporate List.  
17   I think in the particular ones that I did, I'm not sure that  
18   there were, but I can show you some examples up here.

19           Okay. So, I'm back in the tab Corporate List and  
20   this is Row 4 going back to DRI. So, there happen to be two  
21   quotes here. One is from UBS and one is from JPM.

22           And the UBS quote in Cell K-4 is a hundred and  
23   eighty-five and the JPM quote is a hundred. And, I guess, this  
24   Column U is equal to 142.5 in this case, which is -- perhaps  
25   was the average of the two multiple quotes that were received

1 in this case.

2 Q And, just to be clear, is that a position that you valued?

3 A No. I didn't mark -- I didn't mark that position.

4 Q Okay. So, did all of your -- all of the list positions  
5 that you valued involved only a single market quotation?

6 A Let me just see for a second. I'm sorry. I have to go  
7 back to the other sheet. I just don't recall the names of  
8 them.

9 Okay. So, RYL 111220, 161220 in Fannie Mae.

10 Okay. So, this case is a case in which I had two  
11 dealers.

12 Q Would you identify the position you're (inaudible)?

13 A Yes. I'm sorry. So, I'm back on the Corporate List tab  
14 and this is the Row 44 which refers to this thing, RYL, Ryland  
15 Homes, 122011, December 20th, 2011, 135 strike, 135 strike, \$10  
16 million. And I'm asking for a bid on protection.

17 And, so, there are two dealers that happen to provide  
18 quotes in this case. One is Morgan Stanley. They have a quote  
19 of 425 and there's another one, J.P. Morgan, that has a quote  
20 of a 185.

21 So, I don't know why this particular Cell T-44 is  
22 formatted as a date in this case. But it's supposed to be the  
23 average of all of those numbers.

24 So, let's just check what that is. That's 305.

25 Okay.



1 Right. So, the average of the two quotes is 305 and  
2 you can see that in Column -- I'm sorry. I'm back into Lehman  
3 Positions Master sheet and I'm looking at Cell AG-314. And  
4 there's a notation spread which is -- has the value of 305.  
5 So, that's the average of those two numbers.

6 And, in this particular case, I used also the  
7 recovery that Morgan Stanley specified. In the previous sheet,  
8 Morgan Stanley noted a 50 percent recovery in that. I'll take  
9 a sidebar and explain why you'd need to put that in a second.

10 But, anyway, I used it. So, if it would be helpful,  
11 I can give the sidebar as to why people sometimes specify that.

12 THE COURT: Could you go back to why -- probably a  
13 stupid question, but why is there such a disparity between  
14 these two market quotation numbers in that you're at 305, which  
15 was an average of 425 and 185?

16 THE WITNESS: I couldn't tell you. I don't know the  
17 answer to that. It's -- I agree. It's surprising. It's much  
18 larger than what you would expect.

19 But -- I mean, I could speculate but I really don't  
20 know why. I didn't talk to either party about why.

21 THE COURT: Okay. Thank you.

22 BY MR. TRACEY:

23 Q Okay. So, can you tell us why you used the recovery rate  
24 that --

25 A Oh.

1 Q -- that you specified?

2 A Well, yeah. It's just because what -- when you value a  
3 credit default swap, in order to do the valuation, the market  
4 has to assume a certain recovery rate.

5 For example, suppose that you have a credit default  
6 swap that has 100 basis point running coupon. That's -- the  
7 market is sort of saying that on average you should expect to  
8 lose a hundred basis points by -- of credit losses by owning  
9 this thing.

10 But how do you lose the hundred basis points?  
11 Imagine that you think the recovery on a default is 50 percent.  
12 Then, that means that the probability per year of the thing  
13 defaulting, at that assumption, is two percent per year because  
14 50 percent of two percent is a hundred basis points.

15 But, on the other hand, if you thought the recovery  
16 rate was going to be 80 percent, you would only lose 20 percent  
17 in a default. And, so, therefore, the implied default  
18 probability per year is higher, it's five percent per year  
19 because five percent times twenty percent, which is your loss  
20 upon a default, gives you back the hundred-basis point number.

21 So, changing the recovery assumption is going to  
22 change the valuation of CDS slightly depending on the strike  
23 because the so-called hazard rate that the chance of a default  
24 that's implied by the default swap actually changes. So, just  
25 sort of a technical thing but that's why people do specify it

1 sometimes because to do a full valuation, if you have a  
2 recovery rate, which is different than the standard 40 percent  
3 recovery rate, people want to know. Yeah.

4 Q Okay. So, we're on Row 314; could we -- could you take us  
5 from the average spread that you used to how you got to the  
6 ultimate loss calculation?

7 A Right. So, in -- yeah. In this case, it's basically you  
8 have to invoke a CDS calculator of some kind to get you to this  
9 number of 4.52. But that CDS calculator is what was used to do  
10 it and we can kind of see whether the number makes sense or  
11 not.

12 So, let's just think about this for a second. So,  
13 the strike of this coupon is 1.35 percent. And they're saying  
14 that the spread is 305 basis points. So, the difference  
15 between a strike and where they think the market is, is 305  
16 basis points minus a 135 basis points. So, that's about 170 --  
17 that's 170 basis points.

18 So, if you think of how long this contract is, it's  
19 approximately a three-year contract. So, 170 basis points  
20 times three would be 5.1 percent. It's a little bit less than  
21 that because of time value of money and because of the  
22 possibility that the things defaults. So, it's 4.52 percent.  
23 But, the valuation, of course, wasn't done in the manner I just  
24 said. It was done by invoking a CDS calculator. But just as a  
25 sanity check on the number, yeah.

1 Q And could you take us from the 4.52 mark to the loss  
2 calculation?

3 A Yes. So, it's done in the same manner. It's -- you take  
4 the 4.52 percent mark times the quantity of C-314. The  
5 quantity, in this case, is negative because we've sold  
6 protection to Lehman in this case and because we're out of the  
7 money in the trade, the market value is negative and it's  
8 negative -- this is Cell AO-314, negative 345,701.

9 UNIDENTIFIED SPEAKER: (Inaudible) number.

10 THE WITNESS: Negative 345,701.

11 BY MR. TRACEY:

12 Q Okay. So, we've gone through three of the five unique  
13 positions on -- that you valued using market quotations. If we  
14 -- did you have an approach in September and October of 2008 of  
15 valuing all of the positions in the same manner that you just  
16 described?

17 A If you mean whether in the case when I had something from  
18 the list; did I value them all in the same way; the answer is  
19 yes except for that clerical error that I mentioned before  
20 where there's one default swap where I actually had a level and  
21 I failed to transcribe it which I can tell you which one when  
22 we get to it.

23 Q Yeah. Can we look at that now?

24 A Sure. Let's see. So, I'm going to need to filter here.

25 So, I'm -- I'd like to move back to this thing that

1 says QVT source. Okay. So, I'm back in the Lehman Positions  
2 Master sheet. I'm in Column BP and I'm going to filter on  
3 Markit instead of on list. Okay.

4 So, there's a particular -- oh, that's nice. It came  
5 up in the right place.

6 So, there's a particular set of default swaps here.  
7 I'd sold protection on Berkshire Hathaway and I'm in the area  
8 Rows 330 to 335. And, I believe, I used Markit Partners for  
9 all of these. However, there is a level -- there is one of  
10 these in which I actually had a level on the list and I failed  
11 to use it.

12 So, I have to look back to the list to see actually  
13 which one it was. I think it was UBS that gave the response.

14 Okay. So, I'm going back over to the tab Corporate  
15 List. And I'm over in Row 9 of the Corporate List. There is  
16 this credit default swap on Berkshire Hathaway with the 32013  
17 maturity and a 98-basis point strike in a notional amount of 25  
18 million.

19 The quote from UBS was 115 and, I mean, I think the  
20 reason why there was nothing transcribed here is because this  
21 formula wasn't copied down, you can see it. So, that the  
22 average formula wasn't copied down.

23 So, anyway -- so, on that one -- so, I guess, that's  
24 this default swap here, Rows -- I'm back in Lehman Positions  
25 Master. These are Rows 330 - 331. The ty-fi name is BRK130320

1 DS1. And you can see in Cells L-330 and L-331 here, it is the  
2 98 strike.

3 So, as I said, that one I made a clerical error and I  
4 should have used the list level but I used a Markit level  
5 instead.

6 Q And what was the effect of that on the valuation?

7 A The effect of that on the valuation is that the -- if I  
8 had used the list level, because the list -- the list level was  
9 115 basis points. Let's just go back to that. I'm back on  
10 Corporate List. So, you can see K-9 is 115 basis points.

11 And what I actually used is -- I used the 117-basis  
12 point Markit level. But the bid mid was ten percent. So, you  
13 would have to take 90 percent of that number. So, it's going  
14 to work out to be about 105 basis points. And, in this case,  
15 had I used the list level of 115 basis points, that would have  
16 the effect of decreasing QBT's claim by approximately \$100,000  
17 on that order. So, it would be slightly more favorable to the  
18 estate had I -- had I used the list level.

19 Q Now, if you could go back to the Lehman positions master.  
20 If -- I'm sorry. Could you --

21 A Thank you

22 Q -- endeavor again to go back to the list approach to  
23 valuation?

24 A Yes, I'm going back to the BP column. I'm again  
25 filtering it back to lists to get back to the other -- the

1 previous list of ten positions.

2 Q Okay. And I'd now like to direct your attention to the  
3 columns that are in blue. So now we're leaving the discussion  
4 of what you did during the period September 15th until October  
5 15h, 2008.

6 A All right.

7 Q And I'd like you to look at the columns in blue. Would  
8 you tell the Court whether there were any adjustments to the  
9 marks that you have been talking about as list marks after the  
10 original claim was submitted or the original calculation  
11 statement was submitted on October 15th, 2008?

12 A Yes, I mean, just reading the columns, it looks like  
13 there were some changes. For example, looking at Row 70 to  
14 begin with, you can see that it states the original claim was  
15 in Cell BG-70, \$155,250. But then the adjusted claim is  
16 \$144,250. And it notes a reason. It looks like there was an  
17 error in the accrued interest calculation or something. Yeah.

18 Q And who performed those adjustments after October 15,  
19 2008?

20 A I don't actually know the person. I don't believe that I  
21 was the one who did these. In fact, I'm quite sure of it.  
22 But I don't know who specifically did it.

23 Q Okay, then. Thank you. All right. Now I would like to  
24 focus on the positions that you valued using Markit Partners,  
25 so go back to the position master and filter it for those

1 positions, please.

2 A Okay. So I'm going back to Column BP once again and I'm  
3 going to change from lists to Markit. Okay. And that results  
4 in the lower left hand corner in 92 records being found.

5 Q Okay. And so -- and you valued each of those 92  
6 positions?

7 A Yes, I did.

8 Q Using Markit Partners' information?

9 A Using Markit, correct.

10 Q Okay. So for this I'd like you to first explain to the  
11 Court your overall approach to -- when you decided to use  
12 Markit Partners as the pricing source to calculate your loss?

13 A Sure. So there were essentially two parameters that one  
14 had to specify in order to get a replacement value out of the  
15 Markit data. The first is that we had to specify -- first is  
16 the bid mid-spread because Markit by its nature is a midmarket  
17 and we were calculating the replacement value. So depending  
18 on which side of the market you are on, you would have to look  
19 at either the bid or the offer side of the Petch market.

20 And the second one was to the extent you felt that  
21 09/15/08 was not the right date in order to accurately reflect  
22 the replacement value, you would use a date other than  
23 09/15/08. That's -- those are the nature of the adjustments.  
24 Yeah.

25 Q And just to be clear, when I asked you that question, I



1 meant to focus you on -- only on what you knew and did during  
2 September 15th through October 15th; is that how you  
3 understood it?

4 A Yes. Those are -- yes. Those are the adjustments that we  
5 made during that period, correct.

6 Q And so for this line of questioning all of my questions  
7 are going to be limited to that period; is that okay?

8 A I understand. Yes.

9 Q Okay. So let's talk first about the first adjustment that  
10 you described, the addition of a bid -- mid-bid or mid-offer  
11 spread. Would you describe for the Court, your approach to  
12 that adjustment across these Markit Partners positions?

13 A Yes. So in order to estimate the bid midspread, the  
14 different people who are working on this project together,  
15 myself, Nick Brum (ph) Tom Knox, Joe Wolman (ph),  
16 (indiscernible), and we were in the office together and we  
17 wanted to try to first agree on what we felt was a default  
18 level of the bid mid-spread in -- and we talked about it and we  
19 settled on a percentage bid mid-spread of 10 percent. Okay.  
20 What that means is for a credit trading at 100 basis points,  
21 the market would be 90 basis points to 110 basis points, and  
22 similarly for a credit at 200 basis points it would be 20 basis  
23 points on either side. So 180, 220.

24 And the context in which we came to that was, we  
25 actually often recorded a bid offer spread in these spread

1 sheets that we use to calculate our P&L, even though the -- the  
2 NAV of the fund is calculated on a midmarket basis. But kind  
3 of going back -- it was a little bit vestigial, I guess -- kind  
4 of going back to our Deutsche Bank days, our profit and loss  
5 was always calculated on the bid side. And we continued to  
6 record both a bid and an offer. And when we uploaded data, at  
7 least in this -- I can specifically remember in the case of a  
8 sheet that Joe Wolman and I shared, we assumed a 5 percent bid  
9 mid-spread.

10 So we were -- what we were doing basically is one  
11 context we had was that that we were going from a 5 percent bid  
12 mid-spread in our mind to a 10 percent bid. We were saying the  
13 bid mid-spread is going to be wider in this environment than  
14 what we had in the past. And ultimately that 10 percent bid  
15 mid-spread was something that we discussed and we thought it  
16 was, you know, based on the fact that we were in the market, we  
17 thought that was a good default starting assumption.

18 Q And when you say we, who are you referring to?

19 A It means the five people I just mentioned based on just  
20 discussion at the desk.

21 Q Yes. Okay. And now focusing on the valuations that you  
22 did using Markit Partners, did you use 10 percent in all  
23 instances?

24 A I did not use 10 percent in all instances.

25 Q Can you describe in general terms, and we'll go through

1 individual examples, why you would depart from that default 10  
2 percent Markit Partners mid-bid spread?

3 A Sure. So there were -- I think there was a case in which  
4 I used a 3 percent spread because it was an index and it was  
5 just more widely traded. It was more liquid. And conversely,  
6 there were cases in which I used a larger bid mid-spread when  
7 either the credit was just not a liquid credit, it didn't trade  
8 very much, or it might have been an illiquid point on the curve  
9 far away from the five-year point on the curve, or it could  
10 have been a case in which -- there was one case I used a 15  
11 percent bid mid rather than a 10 percent bid mid in which I had  
12 a lot of protection to buy. It was a somewhat liquid credit,  
13 but I was kind of going the way that was hard to do in the  
14 market but I made a notation that this protection is very well  
15 bid. It's very hard to buy. I just didn't think I could buy  
16 the quantity I needed to buy on -- at the standardized bid mid.  
17 I used a larger number. Yeah. I think that those are the main  
18 cases.

19 Q Okay. And is it possible for you to show the Court the  
20 bid mid-spreads that you used as a whole?

21 A Okay. Sure. Okay. So I'm in the Lehman Positions Master  
22 Sheet and I'm in the column W. And you can see there's  
23 something that says Bid/Mid in Cell W3. And then there's a  
24 bunch of numbers here. I think the only three values here are  
25 15 percent for some at the top, 10 percent in the middle, and

1 there's another 15 percent, there's a 3 percent here as I  
2 mentioned, and then as we go down the rows, there's a bunch of  
3 10 percents in this MI account, so. Yeah. So those are the  
4 bid mid-spreads that I used.

5 Q Okay. And can you just tell the Court how many of the 92  
6 positions, how many you used 15, how many you used 10, and how  
7 many 3?

8 A Okay. I'm going to have to count them. So three is two  
9 positions. Hold on. I think 16 are 15 percent. And so the  
10 rest are going to be 10 percent, whatever that difference is.  
11 Okay.

12 Q All right. We'll come back to the reasoning for that in  
13 individual cases, but before that I'd like to talk about the  
14 date of the Markit Partners information that you used.

15 A Okay.

16 Q And would you describe for the Court what approach you  
17 used to -- what date Markit Partners you used in your  
18 calculations?

19 A Sure. Okay. So first, how do we kind of identify which  
20 date that we used? So I'm in Lehman's Positions Master and I'm  
21 looking at Cell V1. So you can see Cell V1 says 09/15/2008.  
22 And just the way the mechanics of the spreadsheet work, in  
23 Column Y, if you don't put anything, it will use 09/15/08,  
24 okay. But if you do put something, it'll use whatever date  
25 that is in Column Y. And by use whatever date, what I mean is

1 it'll go and make a function call to the Markit Partners  
2 database. It'll find the CDS spread interpolated for that  
3 credit on that date.

4 So Column Y actually identifies all of the various  
5 dates that we used in order to do the valuation. And the three  
6 dates that I used were 09/15, 09/16, and 09/17.

7 Q Okay. And why didn't you use 09/15 for all of the  
8 positions?

9 A Yeah. So this is another topic that was discussed common  
10 -- among the various people. And I think that our view was  
11 that we did this market quotation process on 09/15 and we got  
12 whatever we got as a result of it. We also did whatever  
13 replacement trades we did on 09/15 and when did whatever we  
14 did. And in those two cases, as we just talked about, we would  
15 use the -- there'd be a -- certainly in the case of replacement  
16 you were supposed to use those values.

17 But given that we did the market quotation on 09/15,  
18 our view is that the first time that we could trade in the  
19 market for everything that we didn't get a market quotation  
20 would have been on 09/16. And therefore, 09/16 was kind of a  
21 like a default date that one would tend to use. Yeah.

22 Q Okay. So let's now go through an example of a calculation  
23 using Markit Partners' information. And why don't we start  
24 with the first position.

25 A Okay. Sure. So this is a position, a default -- okay.

1 I'm at Row 254 in Lehman's Positions Master and I'm looking at  
2 cell B-254 and this is this credit called KRB-100620DS14. KRB  
3 is the name for this credit card company called MBNA. That was  
4 actually taken over by Bank of America in I think 2005. And  
5 the significance of that is that it used to be a quite liquid  
6 credit in the market. It used to trade a lot, but it doesn't  
7 -- didn't really trade after that.

8 So coming to how this was actually valued, in Cell V-  
9 254, the Markit spread for this date, 09/15/2008, is 1.56  
10 percent. And because this was an illiquid credit, I used a  
11 higher bid mid-spread of 15 percent in this case. So the value  
12 of the spread that's fed into the CDS calculator is not 1.56.  
13 1.56 is the mid-spread, the value that's fed into the CDS  
14 calculator is 1.15 times 1.56 and then that results in this  
15 mark in -- excuse me -- in Cell X-254 of 1.9. I mean I will  
16 just add that logically I'm actually not sure why I chose  
17 09/15/2008 in this case. I think probably logically on a lot  
18 of these, they should have all just been 09/16/2008 for the  
19 reason that I talked about earlier. But as it turns out here,  
20 I used 09/15/2008. Yeah.

21 Q Okay. And can you take us through the rest of the  
22 calculation and how do you get from the 1.56 times 1.15 to the  
23 price?

24 A Right. So the CDS calculator produces the mark and that's  
25 again shown in Column AL, so I'm looking at cell AL-254 now.

1 And then over here the calculation is the same as for all the  
2 other default swaps that we were looking at. In Column AO,  
3 that's the market value. So in this case, Cell AO-254 is  
4 \$139,702 which should be -- I'm sorry -- \$139,702 which should  
5 be equal to 1.9 percent the mark times the notional which is in  
6 Cell C-254 of \$7,370,000.

7 Q Okay. And again just taking the -- all of the Markit  
8 positions would it be did you follow the same method of  
9 calculation using the Markit Partners mid-mark spread  
10 multiplying it by or adding in the mid-bid spread that you  
11 identify in the spreadsheet to get the ultimate mark?

12 A Yes. Everything you said is correct except just for  
13 clarification, in the event that you're selling protection, not  
14 buying protection rather than using, say, 115 percent of the  
15 spread, you would have used 85 percent of the spread. But  
16 modular that comment, everything you said is correct.

17 Q Okay. I'd like you to please go to the next position on  
18 which you used a 15 percent mid-bid spread.

19 A Okay. So that's in Row 256. That's KRB-100620\_DS15. And  
20 just to make sure I'm following the convention correctly, when  
21 you say the next one, the quintessence one that's the sister  
22 one doesn't count?

23 Q Right. Exactly. We're going to skip over the  
24 quintessence ones and just focus on QB (ph).

25 Q Okay. Thank you. And why did you use the 15 percent bid-

1 mid spread in that one?

2 A Well, I mean it's essentially a repeat of the same default  
3 swap, so I used the same logic.

4 Q Okay. Please go to the next one where you used the 15  
5 percent spread.

6 A Yes. This is a mortgage insurer called -- well, it's  
7 actually a multiline insurance company, but it's called  
8 Genworth. This is Row 298.

9 Q And why did you use a 15 percent mid-bid spread on that  
10 one?

11 A Right. So this particular credit generally is a case in  
12 which we had a position that was not extremely large in dollar  
13 terms, but it was large compared to the liquidity in the market  
14 I felt that was available at this time. So you can see that we  
15 had several default spots adding up to -- and I'm looking at  
16 Rows 298, 299, 300, 301, 302, 303, 304, and 305. And I'm  
17 adding this -- the quantities. They add up to about \$32.61  
18 million. And so we were strictly a buyer of protection in this  
19 (indiscernible). And I looked through all of my Bloomberg's on  
20 this when I was trying to look at it and I noticed that it was  
21 very hard to buy protection on this. It -- there were bids for  
22 protection like for instance on Monday, Park Place was trying  
23 to buy protection. But there were no apparent material offers  
24 of protection and I think the 16th was largely the same way.  
25 So I made a notation to myself in Column AE. This was very



1 hard to buy and was well bid. And for that reason I used a  
2 higher bid mid. I felt if I used 10 percent as a default, I  
3 needed to use something higher than 10 percent in order to  
4 value this credit's replacement value.

5 Q Okay. Thank you. Does that apply -- that applies to all  
6 the Genworth positions?

7 A Yes. The Genworth positions were traded as a group.

8 Q Okay. Would you go please to the next position on which  
9 you used the 15 percent mid bid or mid-offer price -- spreads?

10 A Okay. Yes. So now I'm on Row 436.

11 Q Okay. Could you give us your rationale for using 15  
12 percent on these.

13 A Sure. So these -- really the rows 436 to 439 all carry  
14 the same rationale. They are the default swaps on German  
15 banks. Let me just start with V-436. That's a DB, Deutsche  
16 Bank, 100620subDS1. So that means it's a default swap that  
17 matures on June 20th, 2010. It's a subordinated. And it --  
18 yeah. That and it -- yeah. That's basically it.

19 And similarly for -- in B-438, it's Dresdner Bank.  
20 And the reason that I used 15 percent in this case is just that  
21 my experience trading these default swaps of this short date  
22 was that they were illiquid. The on-the-run date at that time  
23 would have been 09/20/2013. So the two-year date would have  
24 been 09/20/2010 so this is actually even shorter than a two-  
25 year date. And my experience trading these short-dated default

1 swaps during that period was I felt that they were illiquid.

2 Yeah.

3 Q And you say they were illiquid, how does that relate to  
4 the size of the mid-offer spread?

5 A Well, kind of almost by definition something that's  
6 illiquid, you'd expect to have a bigger bid mid-offer spread.

7 Q Okay. Are there any other positions that you used a 15  
8 percent mid-bid spread?

9 A No, I don't see any.

10 Q Okay. Let's talk about the positons that you valued using  
11 a 3 percent mid-offer-spread. Could you identify those?

12 A There's only one such position that's in Rows 448 and 449.

13 Q Okay. Describe that for us, please?

14 A That is the ty-fi name is ITRAX 9-EUR-Sub-Fin-130620\_DS10.  
15 That is a index of European financials that traded in, you  
16 know, referenced the subordinate debt of those financials. And  
17 it was just much more liquid than any of these single names and  
18 so I used a lower bid-mid-spread.

19 Q Okay. And now taking the 10 percent mid-bid-spreads as a  
20 whole, is there any way for you to describe in aggregate terms  
21 why you used the 10 percent?

22 A Well, as I said, it was kind of a default assumption that  
23 we used and I think what it was intended to capture is a couple  
24 of things. One is that we felt liquidity in the market  
25 generally was worse. And in addition to that our portfolio had

1 I think relatively few contracts that were on-the-run five year  
2 and we just knew in general from experience that the on-the-run  
3 five year had -- excuse me -- dates away from the on-the-run  
4 had worse liquidity than other dates. So I mean, as I said  
5 ultimately it was judgment call. It was a decision that we  
6 made talking to each other that we felt a 10 percent bid-mid  
7 was reasonable.

8 Q And just so I'm clear on your testimony, did you look at  
9 each of these positions and say the default is an appropriate  
10 mid-bid spread for this position or did you just hit the  
11 default button for anything that didn't stand out in another  
12 way?

13 A I think it was probably somewhere between the two things.  
14 I think that, you know, we are -- we went through line by line  
15 and then looked at each line item. You know, many of these  
16 credits I traded actively. Some of them I did not. And, you  
17 know, we set this 10 percent default. And unless we felt  
18 strongly that it was particularly liquid or particularly  
19 illiquid by its nature, the default is something that you would  
20 keep. And so that's what I did.

21 Q Okay. All right. So let's turn to the dating of the  
22 Markit Partners information that you used.

23 THE COURT: Can I ask you to stop, Mr. Tracey

24 MR. TRACEY: Yes.

25 THE COURT: So we've been at it for quite a long

1 time.

2 MR. TRACEY: Yep.

3 THE COURT: So it's maybe needed to take a short  
4 break and then we'll go to the lunch break.

5 MR. TRACEY: Okay.

6 THE COURT: How about that?

7 MR. TRACEY: Sure.

8 THE COURT: All right. So just very quick, like five  
9 minutes.

10 MR. TRACEY: Okay.

11 THE COURT: All right?

12 MR. TRACEY: That'd be okay.

13 (Recessed at 12:36 p.m.; reconvened at 12:47 p.m.)

14 THE COURT: So just so you know, what we're going to  
15 have to do is we'll go until 1:15. And then I have those folks  
16 coming in at 1:30. And then -- that means we'll resume at  
17 2:15. Simple math. No spreadsheets needed.

18 MR. TRACEY: I'm going to really try and get done  
19 before 1:15.

20 THE COURT: Sure.

21 MR. TRACEY: So feel free to push me.

22 THE COURT: Get done with Mr. Chu's direct?

23 MR. TRACEY: Yes, yes, I'm going to try.

24 THE COURT: Perfect. Great.

25 (Pause)

1 DIRECT EXAMINATION (Resumes)

2 BY MR. TRACEY:

3 Q Okay. I think, Mr. Chu, when we left off, we were going  
4 to start to talk about dates in your Markit Partners' position.  
5 A little earlier, we touched on a position that you had -- for  
6 which you had used Markit Partners' data from September 15th.  
7 Do you recall that?

8 A Yes.

9 Q And you made a comment that -- something along the lines  
10 of logically, those positions should have been valued using  
11 9/16 data. Is that -- am I getting that right?

12 A Yeah, yes, I think that's accurate, yep.

13 Q And when you said that, were you referring to all of the  
14 positions on the spreadsheet for which you used 9/15 data?

15 A Yes, except I just want to point out that that particular  
16 Berkshire Hathaway CDS that we talked about earlier -- this is  
17 the one in rows 330 and 331. That's the one that actually got  
18 a level in the list from UBS. So had I made that -- I happened  
19 to use 9/15. Had I gotten that transcribed correctly, I  
20 wouldn't -- we wouldn't have to worry about that one. But,  
21 yes, I would say for the positions that I used 9/15, I think  
22 that logically probably 9/16 would have been a better date,  
23 yeah.

24 Q Okay. So let's focus then on the first position for which  
25 you used 9/16 data.

1 A Okay.

2 Q Would you -- would you take us through the valuation, why  
3 you selected 9/16, and how that resulted in the loss  
4 calculation?

5 A Okay. Now, so I am on Row Y-312 of the Lehman Positions  
6 Master Spreadsheet. This is -- the default swap is shown in  
7 Cell B-313 CTX-130920DS6. It's a 7.46 million of notional. So  
8 this was valued using the 9/16/2008 date, which can be seen in  
9 the Cell Y-312.

10 And the market spread that applied as of that date  
11 was 4.99 percent, as can be seen in Cell V-312 and a bit mid-  
12 spread of 10 percent was applied to that, which means that the  
13 default swap calculator was fed a value of -- the default swap  
14 calculator -- excuse me -- was fed a spread of 110 percent of  
15 4.99 percent, which led to the column market mark in the Cell  
16 X-312, the value of 16.8. And then the way that that  
17 translates over to the claim is the same as before. So moving  
18 over to Column AL, Cell AL-312. You can see the mark of 16.8,  
19 16.79 transcribes over. And the dollar value of the claim is,  
20 again, shown in Column AO. And the value in Cell AO-312 is  
21 equal to the product of 16.79 percent of \$7.64 million or about  
22 \$1.28 million.

23 Q Okay. And in your view, again focusing only on the 9/15  
24 to 10/15/2008 period, was that -- was that a valuation as of  
25 9/15 or 9/16?

1 A That was -- that was our estimate of the value of what it  
2 would -- it was a valuation as of 9/15/2008, but it used data  
3 as of 9/16/2008.

4 Q And why did it use data as of 9/16?

5 A Well, as I said, because we -- during the day, we replaced  
6 certain positions. And then at the end of the day, we ran this  
7 market quotation process. This would be an example of  
8 something where, on the market quotation process, we didn't get  
9 anything back. Because had we gotten something back, I would  
10 have used it, as I did in the case of another (indiscernible)  
11 Ryl, R-Y-L, that we talked about earlier. And because we  
12 didn't get anything back, our view is that we would have  
13 therefore had to trade as of 9/16/08. And that's why we used  
14 the 9/16/08 close.

15 Q When you say trade, do you mean you would have had to  
16 replace the position on that date?

17 A Right. So basically, we did this market quotation process  
18 as of -- as of the close of business as of 9/15. And we got  
19 back whatever we got back. And this was something where we  
20 didn't get anything back. And therefore, we thought that we  
21 would have to replace it as of a later date. And the next  
22 available date would have been 9/16. That was the logic.

23 Q And did that logic apply -- again, focusing only on what  
24 you were thinking September 15th to October 15th, 2008. Did  
25 that logic apply to each of the positions that were valued

1 using 9/16 Markit data?

2 A Yes, that's -- yes, correct.

3 Q Okay. So now, what I'd like to do -- and the calculation  
4 that you just took us through for that position -- again, would  
5 that -- would that calculation apply to every position that was  
6 valued using Markit data as of 9/16?

7 MR. TAMBE: By this witness, just to be clear.

8 MR. TRACEY: I'm sorry?

9 THE COURT: As to --

10 MR. TAMBE: By this witness. By this witness.

11 THE COURT: As to --

12 MR. TRACEY: By this witness, yes. Sorry.

13 BY MR. TRACEY:

14 A Sorry. Is the question would the kind of mechanics of the  
15 calculation be the same for all of the cases in which I valued  
16 it as of 9/16? I wasn't sure.

17 Q Correct.

18 A Yes, they were the mechanics I just walked you through,  
19 correct.

20 Q Okay. All right. Were there cases in which you used  
21 Markit data, other than 9/15 and 9/16?

22 A Yes, there was the case of one credit, Genworth. This is  
23 now coming back to Rows 298 to 305. I used a date of  
24 9/17/2008.

25 Q Okay. And why did you use that date?



1 A Well, so I was looking through my -- in this case, my  
2 Bloomberg messages to try to get an idea of where this thing  
3 really was. I was trading a lot of other mortgage insurers,  
4 and this was a credit I was interested in. So you can see in  
5 the Column AE, I made a notation to myself. "This was very  
6 hard to buy and was well-bid."

7 And what I meant by that was that during the period  
8 9/15 and 9/16, there didn't appear to be material offers of  
9 protection that were out there. It seemed like dealers, based  
10 on the Bloomberg messages I could see, wanted to buy  
11 protection. So I thought it would have to be an even later  
12 date in this case. To the extent that 9/16 was used for one  
13 other -- for most other things, I used something that was one  
14 day later, which was 9/17. So that was the logic.

15 Q Okay. So what I'd like to do now is move to the fourth  
16 approach that you described earlier, which is the calculation  
17 of a price using another approach. Did you collect those on  
18 your spreadsheet?

19 A Yes, I did.

20 Q And is it possible for you to filter the spreadsheet to  
21 show only those positions?

22 A Okay. So I'm going to return to the Cell BP. And I'm  
23 selecting the notation calculation in this case.

24 Q All right.

25 THE COURT: Can I ask a clarifying question?

1 MR. TRACEY: Sure.

2 THE COURT: If you go back Column AM, some of them  
3 say manual instead of Markit; is that different from what we're  
4 doing now?

5 MR. TRACEY: Manual is an override of Markit. We can  
6 ask the witness.

7 THE COURT: Okay.

8 BY MR. TRACEY:

9 Q Mr. Chu, if you would look at Column AM on the Lehman  
10 Positions Master.

11 A Yeah, I see it.

12 Q Yeah.

13 A Right. So --

14 Q What does that mean?

15 A Right. So these all say manual in the particular filter  
16 we have. And that should correspond to a case in which you  
17 weren't using the Markit data. So it could be for any reason  
18 that you weren't using the Markit data. So let me just go back  
19 for a second.

20 So what I'm going to try to do here is -- this is --  
21 what was the column? Is it this manual column? What was it?  
22 A? AL?

23 THE COURT: AL.

24 THE WITNESS: Yeah, okay, sure.

25 THE COURT: In the --

1 THE WITNESS: Yeah. So -- okay. So what I'm looking  
2 for is -- let's see. M.I., right. So this -- there are  
3 certain cases in which it says manual, certain cases in which  
4 it says Markit. I have to say I'm actually slightly unsure,  
5 because I would have expected that -- let's see. To the extent  
6 that certain of these MPGN positions were done with  
7 replacements, I would have expected to say manual in some way.  
8 But the other ones where they use Markit here, you can see it  
9 continues to say manual. So I can't explain why it says manual  
10 in that case.

11 BY MR. TRACEY:

12 Q I think the --

13 THE COURT: Let me ask a follow-up question. But I  
14 thought the universe that we were looking at was either going  
15 to be replacement, meaning actually replaced; Markit; or --

16 MR. TRACEY: List.

17 THE COURT: -- List.

18 MR. TRACEY: Or the fourth category is the -- is the  
19 calculation, which is none of the above.

20 THE COURT: Which is none of the above. But that  
21 doesn't correspond to manual.

22 MR. TRACEY: It does not. It does not. And there --  
23 Mr. Wolman (ph) will be able to explain that.

24 THE COURT: Okay. All right. I'll wait.

25 THE WITNESS: Okay. Maybe I can unfilter this to get

1 back to the original.

2 (Pause)

3 THE WITNESS: Okay. So we're going to the case  
4 calculation?

5 BY MR. TRACEY:

6 Q Yes, please.

7 A Okay. Okay.

8 Q Okay.

9 A So there's 76 records found in this case.

10 Q Okay. And we talked extensively yesterday about the PCDS  
11 and CARB. Are those positions in this bucket?

12 A Yes, they are.

13 Q Okay. So why don't we start with those? How many -- how  
14 many of those 76 positions are PCDS?

15 A It should be 60 are PCDS. They are all the things -- and  
16 I'm looking, again, on the Lehman's Positions Master. I'm  
17 looking at Column B, as in boy. And you can see various ty-fis  
18 that have the notation -pref.DS. Those are all PCDS positions.  
19 I mean, to be completely sure, I guess -- well, sorry.

20 (Pause)

21 A Those are all these positions here.

22 Q Okay. So 60 of the 76 positions in this category are the  
23 PCDS?

24 A That's right. Yeah, there's 60. I just counted them.  
25 There's 60.

1 Q Okay.

2 A That's correct.

3 Q All right. And how many of the positions of that universe  
4 of 76 are CARB?

5 A There are four of them. Those are in Rows 280 to 283.  
6 The notation that we had for CARB was auto BBB Bespoke.

7 Q Okay. And so, if you take those out of this category, am  
8 I right that there are 12 positions left?

9 A Yes, there are 12 positions left. These are -- these  
10 positions in Rows 202, 203, 204, 5, 6, 7, 8, 9, 10, 11, 14, and  
11 15.

12 Q Okay. And so, that's six unique positions?

13 A Correct.

14 Q Okay. All right. Before we get to those, can you take us  
15 to a PCDS calculation? Just choose any one. I'd like you to -  
16 -

17 A Okay.

18 Q We talked about the rationale yesterday. I'd like to see  
19 how that translates into the spreadsheet calculation.

20 A Okay. So --

21 Q And again, for this entire line of questioning, we're  
22 limiting ourselves to what you did and knew and considered  
23 between September and 15th and October 15th, 2008.

24 A Right. Okay. Sure. So I'm on Row 154 here. This is a  
25 Sun Trust preferred CDS, STI-120620-pref\_DS1 with an amount of

1 \$8.26 million.

2 THE COURT REPORTER: (Inaudible.)

3 And the -- I'm sorry. Of \$8.26 million. The mark is  
4 45.41, which is in Cell AL-154. And then the market value is  
5 calculated in the same way in Cell AO-154 as 45.41 percent of  
6 \$8.26 million is \$3,751,141. And as to where this 45.41 comes  
7 from, --

8 Q That's the 45.41 in Column AL?

9 A In Column AL, yes. There's a tab here analogous to the  
10 Tab M.I. Data called PCDS Data.

11 Q Can we pause on this --

12 A Yes.

13 Q -- spreadsheet for a moment and just, again, give the  
14 Court an overall understanding of what the purpose of this was  
15 and what it shows?

16 A The purpose of this spreadsheet was, basically, to record  
17 the calculations that I was doing for this par minus preferred  
18 concept that we talked about at some length yesterday. And  
19 just to kind of give the result of the calculation, you know,  
20 I'm looking at Row 59 of the spreadsheet. And you can see in  
21 the Cell A-59 it says STI120620-pref\_DS1.

22 And in Column K, the price that's used for the  
23 preferred is 54. So the price -- in the Column L, the price  
24 that's used for the CDS is 46, which is 100 minus 54. And then  
25 translating that back to the master sheet, it's not -- again,

1 it's not exactly equal to 46, because there's some accrued  
2 interest in the trade, which is in the 45.41 number. And so,  
3 similarly, all the STI's were valued at a clean price of 46,  
4 and they have slightly different accrued interests. Everything  
5 else propagates through the same way.

6 Q Okay. If you could return to the PCS data time.

7 A Sure.

8 (Pause)

9 Q I'd like to focus on Rows E through I.

10 A Columns E through I? Okay.

11 Q Right. Would you describe for the Court what those  
12 columns represent and where the data came from?

13 A Sure. Okay. So let's just look at Row 5. Okay. And  
14 I'll get to your columns in a second just to make the whole  
15 thing make sense. So looking at Cell A-5, this is a default  
16 swap called AAB120920-pref\_DS1. That's ABN AMRO.

17 And then you can see there is a -- in Cell C-5, there  
18 is this long string of characters starting with XS. That's  
19 just the CUSIP or the ISIN that identifies the particular bond  
20 that I was looking at. And you can see a notation in Column,  
21 "Is ref. ob.?" And I put yes, because that is the reference  
22 obligation of ABN AMRO that's referenced in this particular  
23 default swap.

24 And what Columns E through I are is those are the  
25 prices from Bloomberg for 15, 16, 17, the 18th, and 19th of

1 September. And I know the source, which is Bloomberg in this  
2 case. Just going across then, I note the claim price that I  
3 used in Column K, 60.4357.

4 So yesterday, we talked about -- I talked about how I  
5 used the low closing price of the week. It happened to be the  
6 19th of September price here as compared to the 15th of  
7 September price of 65.69. So I used 60.4357. And the clean  
8 CDS price, as I mentioned yesterday, was 100 minus that or  
9 39.56.

10 And then this notation file name over here is just a  
11 screen shot that I took. That's just the name of the  
12 screenshot that I saved, some of which we looked at yesterday.

13 Q So that on Column M is a reference to a screenshot?

14 A That's right.

15 Q And did you retain those screenshots?

16 A I did.

17 Q Okay. So if we could just go back to Column C.

18 A Uh-huh.

19 Q Do I understand you correctly that Column C is the CUSIP,  
20 or unique identifying number, of the specific preferred stock  
21 issuance that you used to obtain those prices?

22 A Right. So the -- yes, that's right. So the -- for  
23 instance in Cell E-5, 65.6922 is the Bloomberg closing price  
24 that was shown on the screenshot for the ISIN shown in Cell C-  
25 5, yes.



1 Q Okay. So I just want to focus for a moment on how you  
2 chose that specific issuance. I think you mentioned earlier  
3 that there may be multiple preferred stock issuances for an  
4 individual bank; is that true?

5 A Yes.

6 Q And that CUSIP refers -- if there's more than one, that  
7 CUSIP refers to a single one of the multiple preferred  
8 issuances?

9 A Correct.

10 Q And did you have an approach, again, in September 15 to  
11 October 15th, 2008 as to if there was more than 1 preferred  
12 stock issuance for a particular bank, how you chose the  
13 particular 1 you chose?

14 A Yes, there was.

15 Q And what was that?

16 A So I think I may have mentioned yesterday that I wanted to  
17 start with the reference obligation that was specified in the  
18 contract. I felt that was a natural place to start. You don't  
19 have to use that, but it was a natural place to start.

20 So, for example, here in the case of ABN AMRO, I did  
21 use the particular reference obligation. And I was able to  
22 find a pretty -- you know, at least complete time series on  
23 this -- on Bloomberg. I have data for all the different dates.  
24 That wasn't the case in -- okay. So let me just step back for  
25 a second.

1           So I guess the first part of the answer to your  
2           question is to the extent I could find a reference obligation  
3           that had a reasonably complete time series, I used it, with two  
4           exceptions, which I'll get to in a second. And this has to do  
5           with matching the economics of the CDS with the bond. And so,  
6           I'll explain that when I get to -- when I -- when I come to the  
7           exception.

8           So, for example, going to the next line, I was trying  
9           to piece together some various time series of some of these  
10          other PCAFP bonds. So right now, I'm in Rows 7 through 12.  
11          They're kind of all colored gray in the spreadsheet. And I  
12          think in this case, I may have been piecing them together from  
13          various broker runs from -- in this case, it may have been that  
14          fellow, Peter Camps, whose Bloomberg's we were looking at  
15          yesterday. But it was -- it was difficult to sort of string  
16          them all together to get a complete time series.

17          Similarly, when I looked at the particular reference  
18          obligation for ACAFP -- I'm looking now at Cell D-10. You can  
19          see it says is ref. ob.? Yes. In Cell D-10, it says is ref.  
20          ob.? Is it the reference obligation? And it says yes.

21          And the ISIN is US225313A837. And you can see in  
22          Columns E through I they're all blank. And then I made a  
23          notation to myself in parentheses, "No Bloomberg price data."  
24          So I didn't have Bloomberg price data. So I had to choose a  
25          different ISIN.

1 And the particular ISIN I chose was the ACAFP 4.13  
2 shown here, which has the prices shown here. This might  
3 actually be a reasonable time for me to explain this concept of  
4 matching the bond with the CDS, if we have a couple more  
5 minutes. So to do this, I think we have to take a look back at  
6 the master sheet, and we have to look at what this default swap  
7 actually is. In particular, I'm going to focus on what coupon  
8 is.

9 Okay. So this ACA -- I'm back in the Lehman  
10 Positions Master. I'm on Cell B-108, and I'm looking at this  
11 credit agree default swap, ACAFP120920DS1. And what I'm  
12 looking for is I'm looking in Column L. descriptive strike. So  
13 that's the CDS coupon, which you can see in this case is 0.31  
14 percent. And the next one is 0.32 percent. And the next one  
15 is 0.43 percent.

16 And what does this have anything to do with the  
17 analysis? Well, the way in which it has to do with the  
18 analysis is -- let's go back to the -- what we're trying to  
19 calculate, which is to be in the position of a dealer and  
20 you're going to be short some kind of preferred stock. And  
21 you're going to be receiving the CDS coupon. So we already  
22 figured out the points up front.

23 And the question is is there a match between those  
24 two things. And in this case, there really -- there isn't a  
25 perfect match, because you're only receiving 31 basis points.

1 You're only receiving 31 basis points, 0.31 percent. And  
2 you're paying out, in this case, 4.13 percent.

3 It's not -- that's not exactly the right calculation  
4 in the sense that a dealer may take one extra step, in my  
5 experience, where, if you're short, basically, something that's  
6 a perpetual, it's like a 30-year bond. You're taking both  
7 credit risk and interest rate risk. You may choose to hedge  
8 the interest rate risk by owning some kind of riskless bond,  
9 like a 30-year Treasury bond, for instance. This is a European  
10 instrument. So maybe on 30-year bonds or something like that.

11 That helps to offset. You receive yield. You  
12 receive income by owning those securities, which helps to  
13 offset some of the coupon. But it doesn't -- it doesn't fully  
14 match it. But just to -- in terms of the order of magnitude  
15 we're talking about, these are bonds which are approximately 70  
16 cents on the dollar.

17 I think Treasury 30-year yields were very, very close  
18 to 4 percent around those dates. So if you -- and I think  
19 bonds were about 4-and-a-half percent. So if you were to own  
20 Treasury securities to hedge the interest rate risk in these  
21 bonds that you're short, you would be getting something on the  
22 order of 70 percent of 4 or 70 percent of 4-and-a-half. So  
23 it's going to be on the order of, let's say, call it 3 percent,  
24 to make it simple.

25 So as to the -- as the person who's short the

1 preferred, you're paying out 4.13. You're receiving 31 basis  
2 points from the CDS. That's the CDS coupon. And you're  
3 receiving approximately 3 percent from the Treasuries that you  
4 own. So that's not a perfect match.

5 The dealer is actually still paying out some money to  
6 do that trade. But it sort of emphasizes the idea that, as you  
7 choose the different coupons you're looking at, you want to be  
8 careful to try to match those two things together. So that was  
9 -- that was one of the thought processes behind this.

10 Q Okay. And in choosing the particular CUSIP to use, did  
11 you follow the methodology that you just described with respect  
12 to each of the PCDS?

13 A Yes, I mean, I think that's basically right. If I could  
14 find a reference obligation that didn't have a coupon that was  
15 very far off and it had an okay-looking price series, I would  
16 use it. For example, here -- we talked about this ANZ 5.36.  
17 It actually -- I think -- I believe it is actually the  
18 reference obligation, even though it's not noted here.

19 The ACR -- I noted that this is a reference  
20 obligation, and that's what I used. And I think I mentioned  
21 that there was an exception here. So in the case -- I'm on Row  
22 34 now. In the case of Dresdner, this Dresdner defaults swap,  
23 the reference obligation is an 8.151 percent coupon, which is  
24 the reference obligation. And it has a clean-looking price  
25 series. Clean looking meaning it has all the numbers populated

1 in it.

2 And when I looked back at this particular default  
3 swap, it just --

4 BY MR. TRACEY:

5 A I'm sorry. When I looked at this particular default swap,  
6 I noticed that it had a very low coupon. Let's just look at  
7 it. This is Dresdner. I'm back in the master sheet. I  
8 noticed it had a 35 basis point coupon. So there would --  
9 there would be quite a big mismatch in terms of carry by using  
10 such a high coupon instrument.

11 So as a result of that, I used this Dresdner 6.352  
12 instead. I just couldn't find a preferred that had exactly the  
13 right coupon, but -- nor, generally, when I found the reference  
14 obligation, like in the case of something like Citi Group,  
15 there's lots of preferreds. I guess I could have spent a lot  
16 of time finding exactly the right coupon that would have offset  
17 the carry. But in this case, I found the reference obligation,  
18 and it had a clean price series. So I used it.

19 Q Okay.

20 MR. TRACEY: Thank you, Your Honor. I'm very close  
21 to finishing, but I know that you have a deadline.

22 THE COURT: Yeah. So could I just -- can I ask one  
23 question?

24 THE WITNESS: Sure.

25 THE COURT: We're still on this sheet. And your

1 prior testimony was that, with respect to these, you selected  
2 the lowest close of the week?

3 THE WITNESS: That's right, Your Honor.

4 THE COURT: So whether or not it occurred on the  
5 15th, 16th, 17th, 18th, or 19th, --

6 THE WITNESS: Whatever date it was, Your Honor.

7 THE COURT: Whatever date it was? Okay. So we  
8 didn't exactly make it.

9 MR. TRACEY: But close.

10 THE COURT: But close. So how much longer do you  
11 think you have?

12 MR. TRACEY: Twenty minutes, at the most.

13 THE COURT: Why don't we just do it? Okay?

14 MR. TRACEY: You want to just do it?

15 THE COURT: Let's just do it.

16 MR. TRACEY: Okay.

17 THE COURT: They'll find stuff to talk about, those  
18 folks.

19 MR. TRACEY: Okay.

20 THE COURT: And then you'll go. And then  
21 Mr. Tambe will be able to start, or whoever it is from Lehman,  
22 Ms. Sawyer, I think. Now, Mr. Tambe? Okay. So just --

23 MR. TRACEY: Okay.

24 THE COURT: Are you okay continuing?

25 THE WITNESS: Sure, I'm happy to continue, yeah.

1 BY MR. TRACEY:

2 Q Okay. Just following up on that date point for a moment,  
3 I want to go back to some testimony you gave a bit earlier  
4 about the dating and just make sure we're absolutely clear.

5 A Okay.

6 Q I asked you about the dating in relation to the Markit  
7 Partners' positions that you valued. Do you recall that?

8 A I do.

9 Q Okay. And I asked you whether the Markit Partners'  
10 position is -- whether you calculated your loss as of September  
11 15th. Do you recall that?

12 A I do.

13 Q And what's your answer to that?

14 A Yes, we calculated our loss as of September 15th, but I  
15 think I said I used data after September 15th.

16 Q Okay, fine. And so, now turning to the -- to the PCDS, is  
17 it accurate that you -- well, did you value the PCDS as of  
18 September 15th?

19 A Yes, we valued the PCDS as of September 15th.

20 Q And in a similar way, are you saying that you used some  
21 data from after September 15th to reach that valuation?

22 A That is what I'm saying, yes.

23 Q Okay. Okay. So can we go back to the calculation?

24 That's the last bucket we have to finish.

25 A Sure.



1 Q We've talked about PCDS. Could you just quickly show how  
2 the calculation worked in the CARB and what rows they were?

3 A Sure. Okay. We're back in Lehman Positions Master. And  
4 we're in Rows 280 to 283, which are the 4 CARB positions. You  
5 can note that in Cells C-280 to C-283, they do add up to the 80  
6 million that I mentioned yesterday. Okay.

7 So the value here -- I'm in Cell AD-280 -- is 45.887,  
8 which, again, is a dirty price. The clean price is 46 points.  
9 And I guess I'm going to have to widen the row so I can see  
10 what I wrote. But this is a notation that I made to myself  
11 where I said, "As I said yesterday, GMAC widen 15 points from  
12 912 to 919."

13 So that's the first part of the calculation, the  
14 change in the mark over that period and the second part is the  
15 sort of size/market impact concept. This would take at least  
16 15 more points to get our size done. That's why it's the 15  
17 plus the 15. That gets you to the 46.

18 And in terms of how that flows through into the  
19 claim, it flows through in the same way -- I'm looking at  
20 Column AL, Cells 280 -- AL-280 to AL-283. Those are all 45.89.  
21 And then I'm going over to Cells AO-280 to AO-283. And those  
22 claim amounts are equal to 45.89 percent of the respective  
23 notionals shown in Column C.

24 Q Okay. Thank you. Now, if we could focus on those  
25 positions in this calculation bucket, other than the PCDS and

1 the CARB If you could identify -- you identified earlier the  
2 rows. If you could look at them now and explain to the Court  
3 why you used the valuation approach you did for those.

4 A Sure. So I'm going to look at Row 214 right now. This is  
5 a ty-fi called STSUP-20066-1-E. And the name of the account  
6 that it's booked in is called CMBS Property Hedge Europe. And  
7 this is the -- what this is is it's a default swap on a  
8 securitization of something called Starling Supermarkets in  
9 Europe and in, I think, England. And this is actually the only  
10 credit default swap of this type I ever created. It's the only  
11 thing in this particular property hedge account.

12 The notional is actually, I think, in British points  
13 in this case. It's 4.495 million. So this is not a market I  
14 was extremely familiar with. I wasn't, apparently, on dealer  
15 runs for this -- I don't know how frequently this bond traded.  
16 But when I recall, I tried to look for the price of this cash  
17 bond on my Bloomberg, and I wasn't able to find it.

18 This is a subordinated tranche. I believe it's -- I  
19 believe it's originally BBB rated of this securitization. So I  
20 kind of found myself in a little bit of a similar position to  
21 where I was in GMAC, and I valued it in much the same way.  
22 Instead of looking at GMAC, what I did is I looked at the CMBX  
23 Index.

24 So the notation I made to myself was in -- again, in  
25 Column AE. I -- okay. So what I did here is I think I tried

1 to start with the Lehman mark, which I figured out was a spread  
2 of 580 basis points. I looked at how much this index called  
3 CMBXII, which was a U.S. CMBS Index widened.

4 And then, similar to GMAC, I felt there would be a  
5 large bid offer spread because I thought this was a quite  
6 obscure bond. Again, I wasn't sure who was going to trade it.  
7 So I assume there's a 10-point bid offer in this  
8 -- a 10-point additional cost in this case.

9 There was -- yeah, so that it was kind of a proxy  
10 methodology. Except in this case, unfortunately, there was no  
11 sort of closely related to CDS that I was aware of. So I used  
12 CMBXII, which was a U.S. property index. I didn't know of any  
13 such thing that existed, and I don't think there was any such  
14 thing that existed for British CMBS credit.

15 Q And just to be clear, why did you use this approach rather  
16 than just looking for prices of this STSUP?

17 A Well, as I said, I did look for cash prices of this STSUP.  
18 I just didn't have any of them. I wasn't -- I wasn't really a  
19 big participant in this market. As I said, this is the only  
20 credit default swap on CMBS property in Europe that I ever  
21 created. It was kind of a little bit of a one-off trade, and I  
22 just didn't have those prices.

23 Q Okay. Any other positions in that category?

24 A Yes. So the last group of positions is, I think,  
25 relatively quick to explain. So I'm looking at Rows 202 to

1 211. All of these are in an account called CLO-Equity-  
2 Synthetic. And you can see that each of the default swaps has  
3 a notation -L in the middle of it.

4 So, for instance, in Cell B-204, you can see  
5 something that says JBLU-L. That's Jet Blue. That's their  
6 loan. So it's -- instead of being regular, this is so-called  
7 LCDS. It references the loans instead of the bonds.

8 And you can see also that these default swaps are  
9 very small. Together the 10 line items only add up to \$2.5  
10 million. So what I tried to do is -- well, first, you know, I  
11 tried to look in Markit, but looking in Columns R through V,  
12 there is no Markit CDS data in this case.

13 So then I tried to -- where I could, I tried to look  
14 at the prices of the underlying loans. And I used 100 minus  
15 the price of the underlying loan on the concept that it would  
16 be a basis package, basically. So I was only able to find that  
17 for one of them, and that is U.A., United Airlines, UALAQ. And  
18 you can see in Column AE it says ref. U.A. U.A. loan. So what  
19 I did is I priced the loan, and I did the CDS as 100 minus  
20 that.

21 For all of the other cases, I actually think I just  
22 used the Lehman mark, the exact Lehman mark as of whenever it  
23 was. Let me just double check that that's the case. Okay. So  
24 --

25 (Pause)

1           So I'm just making a change to this reggie (ph) here,  
2       which I'll undo in a second. So I'm looking for the column  
3       Lehman mark. So Column H is this thing called Lehman PX,  
4       Lehman price. That's really not the Lehman margin mark. Just  
5       a second.

6           (Pause)

7           Okay, yeah. So the mark I used was exactly equal to  
8       the Lehman mark. In this case, I'm looking at Cell AL-202 is  
9       3.26. I've manually put in the formula Cell AN-202 equal to  
10      100 times the Lehman mark, from the left part of the sheet.  
11      And it's also 3.26.

12           I mean, I think in essence, these were such small  
13      positions that although undoubtedly the value of the LCDS must  
14      have appreciated somewhat. Having already looked for the loans  
15      and been able to not find them, I didn't bother to try to, you  
16      know, get exactly right what the value would be on a default  
17      swap with, you know, a 300 Dow. I didn't bother to try to get  
18      the value exactly right on a default swap of a few hundred  
19      thousand dollars of notional. I was willing to accept the old  
20      Lehman mark in this case.

21      Q     Okay. Thank you. Just one more question on this bucket.  
22      Going back to CARB for a moment. I may have forgotten to ask  
23      you yesterday. Did you look for broker runs on CARB to see if  
24      they would help you to value that position?

25      A     Well, I think what I did is I think I searched for CARB in

1 my Bloomberg in order to find some of these old Bloomberg  
2 messages that we talked about. And I think it would have -- if  
3 there had been any broker runs on CARB from any other dealer,  
4 they would have come up as a result of that. When I searched  
5 for the word CARB, they didn't come up.

6 Q Okay. And really lastly, the notes that you talked about  
7 in the notes column of this spreadsheet -- did you put those  
8 there between September 15th and October 15th, 2008?

9 A Yes, I did.

10 Q Okay. And did you make any changes to the methodology in  
11 any of these after October 15th, 2008?

12 A No.

13 Q All right. So just stepping back from the spreadsheet for  
14 a moment, can you estimate the number of hours that you  
15 personally spent on the calculation of these claims back,  
16 again, between September 15th, 2008 and October 15th, 2008?

17 A Well, the bulk of the work was done over those weekends.  
18 So I think I probably spent on the order of perhaps, you know,  
19 25 to 30 hours, something on that -- on that range, yeah.

20 Q And did you -- did you use, to the best of your ability,  
21 the information you had at that point to reach your valuation?

22 MR. TAMBE: Objection. Leading.

23 BY MR. TRACEY:

24 Q Let me -- let me ask a different question. Lehman's  
25 counsel has said that QVT's CEO, Dan Gold, sought an

1 opportunity to extract from Lehman hundreds of millions of  
2 dollars more than what QVT had actually lost as of the early  
3 termination date. And QVT's traders followed through on  
4 Mr. Gold's directive. Did Mr. Gold give that directive?

5 A No.

6 Q And did you try to inflate the size of your claim during  
7 those weekends in 2008?

8 A No, I did not.

9 Q All right.

10 MR. TRACEY: Just one second, Your Honor. I have  
11 nothing else, Your Honor.

12 THE COURT: Very good.

13 Okay. So let's come back in an hour, as close as we  
14 can, 25 minutes to 2:00 -- 25 minutes to 3:00, right?

15 MR. TRACEY: Right.

16 THE COURT: Okay. All right.

17 Same rules apply.

18 THE WITNESS: Okay. Understood. Thank you.

19 THE COURT: Okay?

20 Mr. Tambe, would you finish today, you think, with  
21 your cross-examination? Probably not, right?

22 MR. TAMBE: I think it's highly unlikely.

23 THE COURT: Highly unlikely? Okay. All right.

24 Then after the lunch break, I'm going to give you a  
25 stopping point. Because if you're not going to finish, then

1 I'm not going to keep everyone 'til extremely late this  
2 afternoon.

3 MR. TAMBE: Okay. Thank you.

4 THE COURT: All right. Thank you.

5 Thank you, Karen.

6 (Recessed at 1:34 P.M.; reconvened at 2:49 P.M.)

7 THE COURT: We are.

8 MR. TAMBE: I think we've handed up to you --

9 THE COURT: You have.

10 MR. TAMBE: -- a binder for the debtors. And the  
11 witness should have one. And we may go back and forth between  
12 the two binders, so Mr. Chu, if you are at all confused at any  
13 time, let me know. I'll make sure you're in the right binder.  
14 And if we get it all right, whatever document we're talking  
15 about will also be on the screen.

16 CROSS-EXAMINATION

17 BY MR. TAMBE:

18 Q So in the binder that I handed you, if we could turn to  
19 tab 103, which is Exhibit 5204. Now, I'm starting, Mr. Chu,  
20 where you ended your direct examination. That's a document  
21 you're familiar with, correct?

22 A Yes, would you mind if I just took a minute to look at it?

23 Q Sure. Take your time.

24 A Okay. Thank you. I've read it over.

25 Q And my question was, that is a document you're familiar



1 with, correct?

2 A Yes.

3 Q All right. This was the first investor update that went  
4 out to the investors after the Lehman bankruptcy, correct?

5 A I think that's correct, yes.

6 Q And it's signed by Mr. Gold, correct?

7 A Yes, it is.

8 Q And you're aware that the commentary that appears in here  
9 is drafted by Mr. Gold, correct?

10 A Yes, I believe most of it is drafted or perhaps all of it  
11 is drafted by Mr. Gold, yes.

12 Q And documents of this nature, these substantive investor  
13 reports when Mr. Gold drafted the commentary, he would send  
14 around to the partners for their review and comment, correct?

15 A It would be common to do so. I would expect he would have  
16 done so here.

17 Q And since you're familiar with this document, I take it  
18 you don't have any objections to anything that's said in this  
19 document, right?

20 A No, I wouldn't say I have major objections to it. I'm not  
21 sure I would have worded everything the same way, but people  
22 have different writing styles.

23 Q Well, at the time when Mr. Gold sent this important  
24 directive out to investors, you didn't tell him, hey, you're  
25 describing things incorrectly, did you, sir?

1 A No, I didn't say that, no.

2 Q Right. And you did get a chance to review this before it  
3 went out to investors, correct?

4 A I think it's very likely I got it. I actually don't  
5 specifically remember whether I reviewed it or not, but it's  
6 quite possible.

7 Q It's a long time ago.

8 A It's quite possible I would have, yeah.

9 Q It was a long time ago, eight plus years ago, correct?

10 A Yes, it was over eight years ago, right.

11 Q You can't remember all the details from all that time, can  
12 you?

13 A No, I can't remember all the details from that long ago,  
14 no.

15 Q And that's hardly surprising, correct, that you couldn't  
16 remember all the details from all those years ago?

17 A No, I wouldn't say that's surprising.

18 Q Let's go to the section here that talks about Lehman  
19 Brothers. It's on page 2. And it's the paragraph that begins,  
20 "The process for submitting damages claims." Do you see that?

21 A Yes.

22 Q All right, in fact -- and that's a reference to the  
23 process that you had started the weekend before this on the  
24 20th, 21st, and that you continued through October 15th,  
25 correct?

1 A That's right.

2 Q All right. And everything you did was consistent with  
3 what Mr. Gold told investors you would be doing in the process  
4 of submitting damages claims to Lehman, correct?

5 A I'm not sure I completely understand the question. Do you  
6 mean would I describe the calculation as exactly following the  
7 language in this paragraph under Lehman Brothers?

8 Q No, that wasn't my question. Everything you did was  
9 consistent with what Mr. Gold told investors you would be doing  
10 in the process of submitting damages claims to Lehman, correct?

11 A Well, I guess the operative language would be, "The QVTs  
12 will fund -- will claim both types of damages to the full  
13 extent possible under the governing loss calculation method  
14 specified in the relevant counterparty agreements with Lehman."  
15 And what I would say is that I would agree that the QVT funds  
16 have claimed, I think, to the extent I understand what -- to  
17 the extent I understand what Mr. Gold was saying, both types of  
18 damages. As to whether we claim them to the full extent  
19 possible, I don't know that we did that, but we definitely did  
20 claim -- make claims under the governing loss calculations  
21 specified in the relevant counterparty agreements with Lehman.

22 Q So I'm going to ask my question one more time, right?  
23 Everything you did was consistent with what Mr. Gold told  
24 investors you would be doing in the process of submitting  
25 claims -- damages claims to Lehman, correct? That's a yes or a

1 no question.

2 A I would say not exactly for the reason I just said.

3 Q So you think there were -- I just want to understand this.  
4 Are you saying you have not submitted claims to the full extent  
5 possible under the governing loss calculation? Is that what  
6 you're -- want your investors to know?

7 A I think we submitted a claim -- well, to the extent that  
8 the phrase means the full extent possible, it could mean  
9 different things. It could mean, have you submitted a claim on  
10 everything that you're entitled to submit a claim on. That  
11 we've done. Have we submitted the largest possible claim on  
12 any given CDS that we possibly could have submitted? I don't  
13 think the answer to that is yes. So that's what I mean.

14 Q So how about the question that's raised right there using  
15 the words that Mr. Gold has used, have the QVT funds claimed  
16 both types of damages to the full extent possible under the  
17 governing loss calculation methods specified in the relevant  
18 counterparty agreements with Lehman?

19 A And to that I would say I think the QVT claims have made -  
20 - QVT funds have made all claims to which they're entitled but  
21 they haven't submitted the maximum possible claim and  
22 therefore, no, they haven't claimed both types of damages to  
23 the full extent possible.

24 Q So was there an amended notice that went out to investors  
25 telling them that notwithstanding what Mr. Gold said on

1 September 23rd, in fact, the QVT funds should not have done  
2 here is not submit damages claimed to the full extent possible  
3 under the governing loss calculation?

4 A No, I don't think there was any follow up to that.

5 Q Let's talk about some of the other provisions of -- of the  
6 other parts of this investor letter. Staying within that  
7 section, the Lehman Brothers section, the paragraph that  
8 begins, "Of course," that first sentence. "Of course,  
9 following Lehman's bankruptcy, markets became increasingly  
10 unsettled as AIG required rescuing and equity -- and credit  
11 markets turned rapidly against Morgan Stanley and Goldman  
12 Saks." Do you see that?

13 A Yes, I see that.

14 Q Right, and you believe that to be a true statement when  
15 that was made by Mr. Gold in September of 2008, correct?

16 A I agree with that statement.

17 Q That's what happened in the days after Lehman's  
18 bankruptcy, correct?

19 A I think that's a fair description, yes.

20 Q Okay. Now, let's go to the next section which is Morgan  
21 Stanley and Goldman Sachs. And that one says beginning --  
22 begins, "Beginning on Wednesday as markets turned increasingly  
23 against Morgan Stanley and Goldman Sachs' equity and credit, we  
24 took the opportunity to cover the remaining long CDS positions,  
25 etcetera." I want to focus on the first part of that sentence.

1 The true statement, right, "As markets turned increasingly  
2 against Morgan Stanley and Goldman Sachs' equity and credit."

3 A Sorry, are you asking whether markets turned increasingly  
4 against Morgan Stanley and Goldman Sachs' equity and credit --

5 Q Beginning on Wednesday.

6 A -- beginning on Wednesday? I don't think that's exactly  
7 the meaning of the sentence. I think Morgan Stanley and  
8 Goldman Sachs credit was wider on Tuesday than it was on Monday  
9 and from memory, it was wider on Wednesday than it was on  
10 Tuesday. But I don't think he's saying that beginning on --  
11 that markets began to turn against Morgan Stanley and Goldman  
12 Sachs on Wednesday. I think what he's saying is we began to  
13 cover our remaining long CDS positions on Morgan Stanley and  
14 Goldman Sachs beginning on Wednesday. That's how I read it.

15 Q Well, Mr. Chu, isn't he saying that the markets turned  
16 increasingly against Morgan Stanley and Goldman Sachs, that the  
17 spreads continued to widen?

18 A Well, yeah, he's saying they turned increasingly, yes.

19 Q Yeah. And that's consistent with your recollection of  
20 what was going on then.

21 A That Wednesday was generally a bad day for Morgan Stanley  
22 and Goldman Sachs' credit, yes, I agree.

23 Q And it was a bad day for many other credits as well,  
24 correct?

25 A Yes, I think so, uh-huh.

1 Q Going on to the next page, page 3, you'll see the --  
2 there's a section called bans on the short selling.

3 A I see it.

4 Q And by the way --

5 A Sorry, is the microphone an acceptable distance from me?  
6 Can everyone hear if I --

7 THE COURT: Yeah, a little bit farther back. We're  
8 just getting a little bit of a reverb, thank you very much.

9 THE WITNESS: Thanks, okay.

10 BY MR. TAMBE:

11 Q That section bans on short selling, that begins with the  
12 sentence, "The funds experienced poor performance on Thursday  
13 and Friday of last week, the days on which many countries,  
14 including the United States, initiated bans on short selling of  
15 financial stocks" under the parenthetical, do you see that?

16 A I do.

17 Q And you understood that to be a true statement about what  
18 had happened on Thursday and Friday of that week, correct?

19 A Yes.

20 Q Okay. And in fact, your PCDS positions, for example -- or  
21 PCDS positions on financial companies, including companies in  
22 Europe and Australia, correct?

23 A That's correct.

24 Q So the state of the market on Thursday and Friday, because  
25 of these bans was very different than the state of the market

1 on Monday, Tuesday, or Wednesday, correct?

2 A Yes, that's correct.

3 Q Going back to the Lehman Brothers' section, it's right  
4 above the Morgan Stanley and Goldman Sachs, the paragraph right  
5 there. And it's the last sentence of that paragraph. Mr. Gold  
6 says, "I believe that a majority of our month to date losses  
7 would have been sustained even if the QVT funds had had no  
8 direct relationship with Lehman, simply because of the market  
9 conditions unleashed by Lehman's failure." Do you see that?

10 A I do.

11 Q Okay. And some of those market conditions that he claimed  
12 were unleashed by Lehman's failure are the ones we've just been  
13 discussing in this document, correct?

14 A Yes, some of them.

15 Q And that's what happened on days after the Lehman  
16 bankruptcy, correct?

17 A Yes, correct.

18 Q Let's take a step back -- about your background and how  
19 you got into derivatives trades, do you remember that?

20 A Yes.

21 Q And if I recall your testimony correctly, what you were  
22 talking about was initially -- it sounds like you did  
23 econometric modeling, is that right?

24 A Yes.

25 Q And it looks like the first through years you were exposed



1 to structured products, securitized products, asset based  
2 securities, is that right?

3 A Asset backed securities, that's right.

4 Q And not derivatives on asset backed securities, but  
5 primarily asset backed securities, correct?

6 A That's right.

7 Q Because the market for CDS on ABS was still nascent,  
8 correct?

9 THE CLERK: Still what?

10 MR. TAMBE: Nascent.

11 THE WITNESS: I'm actually not even sure whether it  
12 existed during my time at Lehman Brothers.

13 BY MR. TAMBE:

14 Q So what -- I'm talking about Lehman Brothers and probably  
15 your first few years at QVT at DB.

16 A Maybe some specificity on my part would help.

17 Q Yes.

18 A The first time I traded asset backed, pay as you go CDS  
19 was in 2005.

20 Q And by that time, you were at QVT, now separate from DB,  
21 correct?

22 A That's correct.

23 Q Okay. So in all your time at DB, you weren't trading CDS  
24 on ABS?

25 A During -- so that would be 2003, no, there -- I didn't

1 trade any CDS on ABS then, that's right.

2 Q Just terminology, when I say CDS on ABS, you responded  
3 with pay as you go, correct?

4 A Yes.

5 Q Okay. And CARB is a type of pay as you go CDS, correct?

6 A Yes, it is.

7 Q Okay. So generally when you think about CDS on ABS,  
8 you're thinking about pay as you go documentation, correct?

9 A That's right.

10 Q But it doesn't have to be that way.

11 A Are you asking whether I can think of any CDS on ABS that  
12 are not under pay as you go documentation?

13 Q Yeah.

14 A Let me just think it through. So there's CDS on RMBS,  
15 which is under pay as you go documentation, which I trade.  
16 There's CARB, which is under pay as you go documentation.  
17 There's CDS on ABS CDOs, which is under pay as you go  
18 documentation --

19 THE CLERK: (Indiscernible).

20 THE WITNESS: I'm sorry, it's -- there's CDS on ABS  
21 CDOs, which is under pay as you go documentation. There's CDS  
22 on CMBS, which is under pay as you go documentation. And  
23 there's CDS on CLOs, which is also under pay as you go  
24 documentation. So I -- everything that I've ever traded has  
25 been under pay as you go documentation.

1 BY MR. TAMBE:

2 Q And that was starting in 2005 forward, right?

3 A That's right.

4 Q Okay. But before 2005, you knew about cash flow models  
5 and modeling for asset backed securities, correct?

6 A I did, yes.

7 Q Let's talk a little bit about the CARB profit. Now,  
8 you've described generally to the Judge what methodology you  
9 used back between September 15th and October 15th, 2008, to  
10 value those four CARB trades in the portfolio, right?

11 A Yes, I did.

12 Q So let's go through some of the basics because you  
13 mentioned in describing the product that the details will be  
14 found in the confirmation, correct?

15 A Yes, the confirmation is sort of the governing document of  
16 the transaction.

17 Q And you know from the confirmation that the way that  
18 product works is the confirmation states you are entering into  
19 a separate Transaction, capital T Transaction, for each of the  
20 referenced obligations in the basket, correct?

21 A Do you want me to look at a particular part of the  
22 confirmation?

23 Q We can locate the confirmation and we can go -- so tab 11  
24 in your binder, JX-0015. And you can confirm -- you can take a  
25 moment to look through it, but you can confirm that's a

1 confirmation for one of the CARB transactions, correct?

2 A Yes, it looks like it, right.

3 Q One of the ones that you entered into?

4 A Yes, it is.

5 Q I'll give you a moment to look through it because I have  
6 some questions for you.

7 A Okay.

8 Q So I want to draw your attention to the back of the  
9 document and it will be page 929, second to last page of this  
10 document. It says Exhibit A on it. Do you see that? Because  
11 that may be a little bit clearer on the screen.

12 A Exhibit A. Yeah, the annex, okay.

13 Q And that's the reference obligations, correct?

14 A Yes, those are the reference obligations.

15 Q Those are the eight names: four from GM, four from Ford,  
16 correct?

17 A Four from GMAC, four from Ford, that's right.

18 Q That's right, absolutely right. So then they're not from  
19 the auto companies, they're associated with the auto finance  
20 companies?

21 A Yeah, the depositor is GMAC, LLC.

22 Q And just to be clear, when you say who the depositor is,  
23 the depositor is the one that initiated the obligation -- the  
24 consumer obligation and deposited it into that structure, CARAT  
25 (ph) trust, correct?

1 A Yes. I mean, I'm supposed to be technically correct, in  
2 principle, GMAC could have bought auto loans from somebody  
3 else, but they're the ones in this case, I think, that did  
4 originate the loans and can, so to speak, deposited them into  
5 the trust.

6 Q Okay. And the trust owns those loans, correct?

7 A Yes, it does.

8 Q And the trust receives cash flows from investors and pays  
9 it out to -- from consumers and pays it out to investors,  
10 right?

11 A Correct.

12 Q And even if GMAC were to go under, declare bankruptcy, the  
13 trust would not declare bankruptcy, correct?

14 A The trust would not declare bankruptcy.

15 Q Okay. And the trust would continue to receive payments  
16 from consumers, there might be some defaults, but consumers  
17 would pay and investors would get paid, correct?

18 A Yes, the securitizations themselves, it would be extremely  
19 unlikely that they would be, so to speak, consolidated into the  
20 bankruptcy.

21 Q The bankruptcy remote.

22 A Yes, that's the phrase, bankruptcy remote, that's right.

23 Q And you know that phrase from your time of asset backed  
24 securities, correct?

25 A Yes, I do.

1 Q That's the whole idea behind asset securitization, right?

2 A That certainly is one idea behind it, yes.

3 Q And so it's the same issue with the Ford credit auto owner  
4 trust, FORDO (ph), I think is how we refer to it in some of the  
5 documents, right?

6 A Correct.

7 Q Same structure?

8 A Uh-huh.

9 Q And if you turn to the next page, now that you have those  
10 eight reference obligations, let's go to the first -- the  
11 second paragraph, "The parties agree."

12 A Uh-huh.

13 Q And we can highlight the first sentence which goes on for  
14 four or five lines. Now, the first sentence -- is this the  
15 first sentence. That first sentence reads, "The parties agree  
16 that by entering into a transaction governed by these ABX  
17 standard terms, a master transaction, they have entered into a  
18 separate credit derivative transaction, each a component  
19 transaction in respect of each reference obligation listed in  
20 their relevant annex as defined below." Do you see that?

21 A I do.

22 Q And the Exhibit A we were looking to is the relevant  
23 annex, correct?

24 A I mean, I would think so. I have -- I don't actually see  
25 where it says relevant annex. I assume -- yeah, it says

1 relevant annex. Okay, yes.

2 Q You don't have any doubt that the eight securities --

3 A No, I --

4 Q -- we're looking at is CARB?

5 A I agree with you.

6 Q Yeah, okay. And you understood this to be the case when  
7 you entered into these transactions, correct, that they were  
8 treated under the documentation as eight separate credit  
9 derivative transactions in respect of each separate preference  
10 obligation, correct?

11 A I understand that, yes.

12 Q Now, you also understood under the ABX terms that if you  
13 are going to sell, or novate, or assign this confirmation, it  
14 was an all or nothing deal, correct?

15 A Yes.

16 Q But that said nothing about how you value these  
17 transactions. It didn't say you have to value them just as a  
18 whole and you couldn't value them singularly, correct?

19 A I don't think it says anything about valuation on what.

20 Q No restrictions on how you value these, correct?

21 A No, as I said, I don't think it says anything about  
22 valuation either way.

23 Q All right. A couple of other things. Let's go back to  
24 the front of this document.

25 A Okay.

1 Q So we talked about the fact that these are pay as you go,  
2 correct?

3 A Yes.

4 Q And a feature of these transactions is you do not have a  
5 maturity mismatch between the CDS and the underlying reference  
6 obligation, correct?

7 A Correct.

8 Q And there's a specific mechanism that makes sure that the  
9 maturities line up, correct?

10 A I mean, that's kind of the pay as you go mechanism, yes.

11 Q That's right. As the bond amortizes, the CDS amortizes?

12 A Yeah, that's right. The CDS factor follows the bond  
13 factor.

14 Q Exactly. So as the notional of the outstanding bonds goes  
15 down, the notional of the CDS goes down, correct?

16 A That's correct.

17 Q And that can happen for two reasons either --

18 THE CLERK: (Indiscernible).

19 MR. TAMBE: Sorry. We're both going to have trouble  
20 because we're both fast --

21 THE CLERK: (Indiscernible).

22 MR. TAMBE: I'll say it again.

23 THE CLERK: (Indiscernible).

24 BY MR. TAMBE:

25 Q So as the notional reference obligation goes down, the



1 reference of the CDS goes down?

2 A Yes. I mean, the way it's quoted is if you entered into a  
3 \$10 million trade, you would always call it a \$10 million  
4 trade, but everyone would understand that if 60 percent of the  
5 bond were gone for whatever reason, you'd be only trading \$4  
6 million so to speak.

7 Q Yeah. And the cash flows for the underlying reference  
8 obligation are mimicked by the cash flows on the CDS generally,  
9 correct?

10 A Sorry, what do you mean by mimic? On which side of the  
11 CDS are you?

12 Q Well, if you -- fair point, right? So it -- this would be  
13 like if you are a protection seller --

14 A Okay.

15 Q -- right, you are making cash flows and receiving cash  
16 flows similar to being short -- long (indiscernible), correct?

17 A I mean, kind of. You're not -- if you own the bond, you  
18 are receiving the cash coupon and you're also receiving the  
19 principal payments. If you're selling protection, you are --  
20 let me just say one thing about -- other thing about if you own  
21 the bond. So you're supposed to be receiving the principal  
22 payments if you own the bond, but if the bond has a write down,  
23 you don't pay any money out, you just take a write down. And  
24 in the case of a protection seller, you receive a different  
25 coupon, in this case it's 150 basis points. When they're

1 principal payments, nothing happens to you. You just amortize  
2 down your notional. But if there's a write down, you actually  
3 have to make a pay as you go payment, so I think that's how it  
4 works.

5 Q And so when there's a shortfall to the bondholders,  
6 there's a loss incurred by the bondholders, they'll get payment  
7 made to the protection buyer, for example, a QVT in this case.

8 A That's correct.

9 Q And it's possible to model the cash flows of these bonds,  
10 correct?

11 A Yes, it is.

12 Q And you, in fact, model the cash flows of these bonds at  
13 least at some point, when you have these transactions, correct?

14 A If you -- by modeled, you mean I used a cash flow engine  
15 like Intex, yes, I did that.

16 Q And you knew exactly how to do that, correct? You have  
17 the information to do that?

18 A Yes, I know how to use Intex.

19 Q But you didn't use Intex for purposes of pricing of CARB  
20 transaction, or valuing the CARB transaction between September  
21 15th and October 15th, 2008, correct?

22 A I did not, no.

23 Q Now, you also got information from time to time, or could  
24 access information from time to time about the performance of  
25 the underlying bonds, correct?

1 A Yes.

2 Q Okay. And it would give you detailed reports about what  
3 the health was of any one of these securitizations, correct?

4 A Do you mean the remittance reports?

5 Q Absolutely, yeah.

6 A Yes.

7 Q And that would tell you losses to date, it would tell you  
8 the status of the reserve account, it would give you lots of  
9 detail about what was going on inside the securitization,  
10 correct?

11 A Correct.

12 Q Okay. So let's take a look at one of those. And you know  
13 how those work, correct?

14 A I'm generally familiar with remittance reports, yeah.

15 Q Well, you're investing, what, hundreds of millions of  
16 dollars in investor money in asset backed securities, and  
17 derivatives on those, you have an idea how those work?

18 A Yeah, as I said, I'm familiar with remittance reports.

19 Q Let's go to tab -- I think it's tab 121.

20 A Okay.

21 Q And it is CX-1354. Let's start by enlarging the top of  
22 the document. If you need a moment to flip through those  
23 pages, Mr. Chu, and know what this is about, I'll ask you some  
24 questions when you're done.

25 A Okay, I've looked through it, yeah.

1 Q And that is a remittance report for one of the  
2 securitizations that is referenced in your CARB transactions,  
3 correct?

4 A Yes.

5 Q All right. And in particular it's, I guess, FORDO 2006-C,  
6 right?

7 A Right.

8 Q And in particular, the obligation that is referenced in  
9 your CDS are the class C notes, right?

10 A Yes, I think so.

11 Q You had that pretty picture yesterday that you talked  
12 about, about how the class C notes are all the way down at the  
13 bottom, almost at the very bottom of the stack, correct?

14 A Yes.

15 Q The green boxes.

16 A Yes, the green boxes.

17 Q Okay, all right. So let's just study this report. And  
18 this report has a collection period date of August 2008 at the  
19 top right-hand corner?

20 A Uh-huh.

21 Q So that's all monies received by the end of August 2008,  
22 correct?

23 A I think so, yeah.

24 Q And the report itself gets published a couple of weeks  
25 later?

1 A Well, the payment date is 9/15. I would assume that this  
2 comes out either on that date or very close to that.

3 Q Okay. So let's turn to page 2 of this document. And  
4 let's start with distributions, which is Romanette 3. We can  
5 enlarge that. All right, the three left columns we can  
6 enlarge. That's the waterfall, right?

7 A Right, so this is the monies in. Yeah, the available  
8 funds. Yes, so this is how the available funds are distributed  
9 through the different notes, yeah.

10 Q Right. And as you go down the two columns, you'll see  
11 calculated amount versus amount paid, that adds up, right,  
12 exactly what's calculated is what's paid, right?

13 A Uh-huh.

14 Q Yes?

15 A Yes, it looks like that, yeah.

16 Q And there's money left over. There's a residual \$2  
17 million left over after everyone's been paid.

18 A Right.

19 Q Right.

20 A The phrase residual released to depositor.

21 Q So that money goes back to the depositor. That's excess  
22 money in August of 2008?

23 A Yes, there's residual cash flow, that's right.

24 Q And there's some other excess flow. So let's go over to  
25 the next page, page 3. There's a section 6,

1 overcollateralization information. And let's increase the size  
2 of that. So the specified reserve balance, do you see that?

3 A I do.

4 Q Do you see the targeted credit enhancement amount?

5 A Uh-huh.

6 Q And then all the way at the bottom of that, actual  
7 overcollateralization amount, do you see that?

8 A I do.

9 Q Good. And that's comparing two figures, right? End of  
10 period pool balance minus end of period note balance, do you  
11 see that?

12 A I do.

13 Q So that's assets minus liabilities, right?

14 A I actually don't know if the pool balance includes the  
15 reserve balance or not, but I think that's the idea is that how  
16 many loans are here versus how many bonds are outstanding.

17 Q And that number is \$148 million of overcollateralization.

18 A Okay.

19 Q And if you look below that, the next section is  
20 reconciliation of reserve account. And no money has been taken  
21 out of the reserve account, do you see that?

22 A I do.

23 Q And that's at 16.5 million.

24 A All right.

25 Q So even though the C notes are down there second from the

1 bottom, there's some cushion there, right?

2 A Yes, they have subordination, yes.

3 Q And all the things we just talked about are different  
4 aspects of the credit enhancement and subordination that  
5 supports those C notes and the structure as a whole, correct?

6 A Uh-huh.

7 Q Yes? That's a yes?

8 A Yes.

9 Q But this is not a document you looked at when you were  
10 deciding what value to put on the car trades between 9/15 and  
11 10/15/2008?

12 A No, I don't think I look at the remittance report.

13 Q You don't look at a single one of the remittance reports,  
14 but any of the securitizations in that period, correct?

15 A I don't think I did, no.

16 Q And another thing you didn't look at is you did not look  
17 at the Bloomberg prices for the securitizations either,  
18 correct?

19 A No, I did not look at the Bloomberg prices for the  
20 securitization.

21 Q Those were available to you. You could have looked at  
22 those, right?

23 A Yes, I think the Bloomberg prices would have been  
24 available, yeah.

25 Q You have the terminal, you have the CUSIPs, you could do

1 it?

2 A I think I said yes to your question, yeah.

3 Q All right, now you did do that after the fact, correct?

4 A Sorry, you mean what -- over what period?

5 Q So after the calculation statement has been submitted, you  
6 did pull down the Bloomberg daily and monthly prices for these  
7 underlying securities, correct?

8 A I mean, some number of years later I think I did, yes.

9 Q Right. And let's look at tab 109 in your binder, it may  
10 be a native document. It's Exhibit 5433.

11 THE COURT: What was the tab number?

12 MR. TAMBE: 109.

13 THE COURT: Thank you.

14 MR. TAMBE: And it is a native document, so it will  
15 come up 5433.

16 BY MR. TAMBE:

17 Q Now, you recognize this document, correct, sir?

18 A I'm not actually sure I do. I mean, looking at the  
19 metadata, it says author Michael D., which I would think is  
20 probably Michael Deermount. I guess it also says privileged  
21 and confidential, but leaving that aside.

22 Q I don't think your lawyers are complaining yet.

23 A Okay, that's fine. All right, so what is this thing? One  
24 second.

25 Q Take a moment. If you want to drive it, I'm not sure



1 whether you have control. If you don't, we can get control of  
2 the spreadsheet to you. Would that help?

3 A Sure, yes.

4 Q Well, let's do that. Just transfer it over so he can  
5 drive the thing. All right, so you've got control now  
6 (indiscernible) spreadsheet.

7 A Okay, except it's a different spreadsheet.

8 Q No, it's not the right spreadsheet.

9 THE COURT: Hold on. Hold on.

10 MR. TAMBE: 5433. There's an explanation because his  
11 control pad is attached to that computer, they have to pull up  
12 the spreadsheet and then Mr. Chu can drive it.

13 THE COURT: Like a student driver, you need two  
14 separate --

15 MR. TAMBE: I looked into that and I was told you  
16 can't have two mice.

17 THE WITNESS: So I still don't -- I'm not sure, are  
18 you waiting for me or am I waiting for you?

19 THE COURT: All right, let's just slow down and try  
20 to figure this out.

21 THE WITNESS: Okay.

22 THE COURT: Okay?

23 MR. TAMBE: I think we're waiting for it to be pulled  
24 up on the --

25 THE COURT: Okay.

1 BY MR. TAMBE:

2 Q Okay, so it's up if you want a moment to look through it,  
3 I believe it has data that goes to the end of 2008 that you can  
4 focus on, whatever part you like. When you're done looking  
5 through it, let me know when you're done.

6 A Sure.

7 Q I believe the record should show that you're now in  
8 September of 2008 on the BBG daily spreadsheet, is that right?

9 A Okay.

10 Q (Indiscernible) so let's get back there if we can -- okay,  
11 so you're on the next tab now, BBG and IVC monthly.

12 A Yeah, I just wanted to finish responding to your question  
13 as to --

14 Q Sure.

15 A -- whether I had seen this document before. Okay, I'm not  
16 actually recalling whether I saw this document before or not  
17 but okay.

18 Q But you understand all the information that's conveyed on  
19 it, right?

20 A Yeah, I think I know what it's saying.

21 Q And you'd recognize the eight CUSIPs over in columns A, B,  
22 and C, do you see that?

23 A Yeah. I recognize the security names, yeah, and I assume  
24 those are the right CUSIPs as well.

25 Q Okay. So if you could just move the spreadsheet over so

1 we have the 9/12 through 9/19 period up on the screen. Okay,  
2 one more column over.

3 A Okay. Sorry, 9/12 to 9/19, okay, sure.

4 Q Okay. So now you have on the screen up 9/12 through 9/19  
5 and some other dates, correct?

6 A I do.

7 Q And you can see the individual items for each CUSIP and  
8 then there's a number at the bottom, for example in cell XE-10,  
9 do you see that?

10 A I do.

11 Q Now, you recognize that, so if there's an average of the  
12 eight numbers above it?

13 A Uh-huh.

14 Q And, in fact, you can see the formula highlighted there.  
15 It's an average of the eight numbers above, correct?

16 A Right.

17 Q And so had you gone to Bloomberg when you were calculating  
18 the valuation, this is what you would have seen, correct?

19 A I assume it's what I would have seen, yes.

20 Q And it would show that there was a slight increase in the  
21 Bloomberg prices from Friday 9/12 to Monday 9/15, do you see  
22 that?

23 A I do see that.

24 Q But that's not something you did, correct?

25 A No, I didn't look at these prices. They look not very

1 reliable to me, but okay.

2 Q But you've never looked at them before, correct?

3 A Do you mean did I look at them at 9/15 to 10/15 or have I  
4 ever looked at them?

5 Q Well, you looked at them since then, but 9/15 to 10/15,  
6 did you look at them?

7 A I did not look at them in 9/15 to 10/15.

8 Q And, please, that week, you didn't look at these prices  
9 and say they're unreliable, I'm not going to use them?

10 A No.

11 Q That didn't happen?

12 A No, I did not look at those prices in that week, that's  
13 correct.

14 Q But you looked at lots of other Bloomberg prices, right?

15 A I did.

16 Q I mean, as you were dealing with the aftermath of Lehman,  
17 you were looking at every screen you could look at at your desk  
18 to see if you could value these complex CDS where Lehman seemed  
19 to be the only game in town, right?

20 A Yes, but in the case of asset backed securities and  
21 corporates, I think the pricing reliability is quite different  
22 in those cases and I felt that at the time.

23 Q And so instead you thought the best thing to do was use a  
24 GMAC CDS spread from 9/12 to 9/19 instead of looking at the  
25 Bloomberg prices for the actual reference obligations, correct?

1 A Well, I did use the GMAC CDS from 9/12 to 9/19 and I  
2 didn't look at the Bloomberg prices.

3 Q Well, and you've said to the Judge that you thought that  
4 was the reasonable way of doing this calculation, not to look  
5 at the Bloomberg but to look at GMAC's spreads over a week.

6 A Well, I said that what I did was I used the GMAC spreads  
7 over that week and I do think that was reasonable.

8 Q Well, not only did you use the GMAC spreads over that  
9 week, you added another 15 points on top of the movement of  
10 GMAC from 9/12 to 9/19, correct?

11 A That's right. We added that, yes.

12 Q Now, when we discussed your valuation methodology the last  
13 time we met, you told me that there were no screenshots that  
14 you saved off whatever GMAC spreads you looked at, right?

15 A No, I don't think I saved a screenshot of GMAC.

16 Q But you could not even identify to your auditors what GMAC  
17 security you were referencing when you talked about a 15 point  
18 movement, correct?

19 A Sorry, to my auditors? I'm not sure I talked --

20 Q Your fund administrator.

21 A Sorry, I'm a -- I don't recall having a conversation with  
22 my fund administrator about the GMAC loss calculation.

23 Q Do you know if anyone at QVT did?

24 A It's certainly possible. I don't recall having that  
25 conversation.

1 Q But in any event, there were no screenshots to provide so  
2 you could provide none, correct?

3 A I didn't, but GMAC five year is a very, very widely traded  
4 and quoted credit, but you're right, I didn't take a screenshot  
5 of it.

6 Q So it is widely traded?

7 A Yes. It is --

8 Q And it was --

9 A -- GMAC CDS is widely traded.

10 Q And it was widely traded that week?

11 THE CLERK: (Indiscernible).

12 BY MR. TAMBE:

13 Q And it was widely traded that week?

14 A Yeah, I guess I don't have volume information, but I  
15 think, yes, I think it was widely traded that week.

16 Q And that week you made no effort to add GMAC CDS  
17 protection to your portfolio, correct?

18 A I did not trade GMAC personally during that week. I'm not  
19 certain whether many of my colleagues did or not.

20 Q But you were getting regular Bloomberg runs telling you  
21 what the GMAC spreads were day to day to day, correct?

22 A Yes. We had Bloomberg runs on GMAC.

23 Q So let's look at some of those runs.

24 A Okay.

25 Q Let's look at 64 -- tab 64 in the binder I gave you, which

1 is JX-69. You recognize that as a Bloomberg run, correct?

2 A Yes.

3 Q And it has on there: GM, GMAC, Ford Motor, Ford Motor  
4 Credit, and ResCap, correct?

5 A Uh-huh.

6 Q Yes?

7 A Yes.

8 Q It's got the autos as well as the auto finance companies  
9 and ResCap?

10 A It does.

11 Q It tells you the previous flows. It tells you the open.  
12 It tells you the updated, correct?

13 A Yes.

14 Q And this is a document that we're looking at, which is JX-  
15 69, that's dated Monday, September 15th, 11:30 a.m. Do you see  
16 that?

17 A Uh-huh.

18 Q Yes?

19 A Yes.

20 Q And it's got the GMAC previous flows and it gives you a  
21 bid ask 29 30, do you see that?

22 A I do.

23 Q And we've got the update, which is the Monday update, at  
24 32 34. See that?

25 A I see it.

1 Q It's about a three to four point move from Friday to  
2 Monday at this point, correct?

3 A Right.

4 Q It also has the Ford Motor Credit information on it. Do  
5 you see that?

6 A I do.

7 Q And again, about a three point move for Ford Motor Credit,  
8 21 22 on Friday, 24 25 and a half it looks like on Monday, do  
9 you see that?

10 A Uh-huh.

11 Q And you've got updates and runs like this every day from  
12 the same folks at JPMorgan, correct?

13 A I mean, I assume I did, yeah.

14 Q Right. And yet when you sat down to do your valuation,  
15 the only spreads you looked at were the GMAC spreads?

16 A We use GMAC, that's right.

17 Q Even though your securitization and your basket of  
18 securitizations was half GMAC and half Ford, correct?

19 A Yes, we use GMAC.

20 Q And you knew at the time that GMAC had exposure not just  
21 to auto financing, but GMAC was also a home mortgage lender,  
22 correct?

23 A I think that wasn't exactly our understanding of it. I  
24 don't think that's exactly right.

25 Q Well, sure you looked into it, didn't you?



1 A Well, I think to be precise about it, the way I think it  
2 worked is that -- so ResCap was the mortgage part -- so ResCap  
3 and GMAC were sort of formerly one entity but then I think  
4 around 2004 and 2005, that was a time when mortgages were  
5 thought to be like the better thing to be. So ResCap was so-  
6 called ring fenced from GMAC. And so I don't think it's so  
7 much that GMAC had a lot of mortgages as such on its balance  
8 sheet, but rather that GMAC had shown an inclination to support  
9 ResCap and, you know, inject funds into ResCap in various ways.  
10 But if your point is that GMAC was thought to have some  
11 connection to ResCap, I think that is correct.

12 Q Right. And in doing your calculations and relying solely  
13 on GMAC and the GMAC move from 9/12 to 9/19, you made no  
14 adjustments of the fact that there was this other relationship  
15 involving ResCap that you just described, correct?

16 A We just used the GMAC spreads, that's correct.

17 Q Let's go to tab 92 in your binder. And that's JX-74.  
18 Same thing, this is a run you got on Tuesday, first thing in  
19 the morning, correct?

20 A Uh-huh. Yes.

21 Q And let's go to tab 95, which is JX-76.

22 A Yes.

23 Q And that's a run you got again from JPMorgan on Wednesday  
24 afternoon, right?

25 A It is.

1 Q And you never picked up the phone and called JPMorgan and  
2 said, hey, I want to trade GMAC or FMCC CDS that week, did you,  
3 sir?

4 A No, I think I said I didn't trade GMAC that week  
5 personally and I don't think I traded FMCC either.

6 Q Let's go to tab 99. And that's JX-82.

7 A Okay.

8 Q And so there you'll see -- that's another one of these  
9 auto CDS runs you received from JPMorgan, correct?

10 A Yes.

11 Q Okay. So if you can, keep your hand right there on tab 99  
12 and let's go back to tab 64, which is JX-69.

13 A Yeah.

14 Q You've got those two? And lots of numbers here, but let's  
15 just focus on the update column. For GMAC on Monday, the quote  
16 was 32 34, do you see that?

17 A Yes.

18 Q And on Friday it's 44 45 and a half, do you see that?

19 A I do.

20 Q Right, so if you were using CARB as a GMAC hedge, as it's  
21 reflected in your spreadsheet, you could have bought GMAC on  
22 Monday and you would have made up there a lot of money by  
23 Friday, correct?

24 A Yes, we could have -- well, wait, sorry. If you're --  
25 what's your question exactly? Is it did GMAC CDS widen between

1 Monday and Friday? Yes.

2 Q By about 10 points, right?

3 A Yes, I -- right. GMAC widened between Monday and Friday,  
4 yes.

5 Q And had you actually purchased those GMAC CDS on Monday  
6 when it was offered to you by JPMorgan, that would have been a  
7 much more valuable position by Friday?

8 A Yes, it would have gone up from a midmarket of roughly 33  
9 to a midmarket of roughly -- I guess I can't, it's a little bit  
10 blurry but we'll call it 44 and three-quarters or something.

11 Q And you'd have had a contract -- a derivatives contract  
12 with JPMorgan where they would have owed you money on that  
13 move, right?

14 A Yeah, the value of our position would have gone up, yes.

15 Q And, in fact, if they were obligated to post collateral to  
16 you, they'd be posting collateral to you on that change,  
17 correct?

18 A Yes, presumably.

19 Q But you didn't do that trade, correct?

20 A We didn't do that trade, no.

21 Q Instead, what you've submitted in this Court is a  
22 valuation statement which you call a replacement value  
23 transaction for a trade you didn't do seeking to charge Lehman  
24 for that move from 9/15 to 9/19, right?

25 A Wait, let me just try to unpack the question. So is the

1 question whether or not we use the GMAC move as a basis for our  
2 valuation for loss in the calculation we submitted, the answer  
3 to that is yes.

4 Q So a trade you could have done on Monday that would have  
5 made you money by Friday, a trade you didn't do, is the basis  
6 for a calculation against Lehman's creditors, is that right?

7 A Just a second. We didn't do a trade in GMAC and we did  
8 use GMAC -- the change in GMAC CDS in order to do the valuation  
9 for purposes of loss.

10 Q So the answer to my question is yes. A trade you could do  
11 but chose not to do --

12 A Well, it's not --

13 Q -- is a basis of your claim against Lehman's creditors?

14 A Well, it's not a trade either way. And it's not between  
15 Monday to Friday in any event. It's from 9/12, I believe, to  
16 9/19. It's just a level -- the midmarket of GMAC move, that's  
17 -- whether we traded it or not, that is the midmarket move that  
18 we used in the calculation.

19 Q You told us that the GMAC CDS market was liquid, correct?

20 A It's a liquid market, yes.

21 Q You could have traded tens of millions of dollars of GMAC  
22 CDS on Monday, correct?

23 A I would think so, yeah.

24 Q But you didn't even try to?

25 A We -- as I said, I didn't trade GMAC CDS that week. By

1 the way, is the microphone distance acceptable?

2 THE COURT: It's real good.

3 THE WITNESS: Okay.

4 THE COURT: Thank you.

5 BY MR. TAMBE:

6 Q That's all right. Just a couple other things on CARB. I  
7 believe you said on direct that one of the other things you did  
8 was you searched your Bloomberg messages for CARB, C-A-R-B, is  
9 that right?

10 A Yes, I think so, yes.

11 Q I thought you also said that CARB was an index that was  
12 proprietary to Lehman, is that right?

13 A Yes.

14 Q So once Lehman had failed, you didn't expect to see a lot  
15 of Bloomberg messages from other dealers quoting you CARB, did  
16 you, sir?

17 A No, I didn't expect to see that.

18 Q So searching for CARB through your Bloomberg messages, you  
19 knew was an exercise in futility?

20 A Well, no, I wouldn't say that.

21 Q Well, you could have searched your Bloomberg messages for  
22 the reference obligations underlying the CARB basket, correct?

23 A Yes.

24 Q You didn't do that?

25 A No, I don't believe I searched for the reference. I was -

1 -

2 Q And you're only going to find what you look for, right?

3 A If you say so.

4 Q Well, you get 69,000 Bloomberg messages a day, right?

5 A Yes, I get a lot of Bloomberg messages a day.

6 Q Way too many. You've got to go looking for the ones you  
7 want to rely on, right?

8 A Yes, you're going to have to look for what you want to  
9 find, I agree with that.

10 Q And you've got to go looking for the ones that you want to  
11 show the Court, correct?

12 A Well, I was just trying to find prices at that time. I'm  
13 not sure I was thinking about what I was going to show the  
14 Court.

15 Q Well, you were looking for evidence that you were being  
16 reasonable, weren't you, sir?

17 A I was trying to do a reasonable calculation.

18 Q So in trying to do a reasonable calculation on CARB, you  
19 didn't look at the Bloomberg prices for the underlying bonds.  
20 You didn't search your Bloomberg messages for any references to  
21 the underlying obligations, correct?

22 A I don't recall searching for the underlying obligations.

23 Q And you don't recall calling JPMorgan and trying to do any  
24 of those GMAC transactions, correct?

25 MR. TRACEY: If I could just, Your Honor --

1 THE COURT: Yes.

2 MR. TRACEY: -- ask that counsel allow the witness to  
3 finish the answer. I'm watching the transcription and --

4 THE COURT: Okay. Let's --

5 MR. TRACEY: -- all the answers are being --

6 THE COURT: Let's try to slow it down half a notch.

7 MR. TAMBE: I think I'm ready to switch topics.

8 THE COURT: Yeah, so if we could just take a break  
9 for a couple of minutes, that would be great, okay? And how  
10 long did you think we ought to go today? I think it's -- well,  
11 it's not hard to imagine that you're not going to be done with  
12 your cross-examination this afternoon. So do you have one more  
13 segment? One or two more segments do you think?

14 MR. TAMBE: That's what I'm deciding. If I can  
15 switch up some segments and use the next 45 minutes --

16 THE COURT: Okay. So why don't we just take -- let's  
17 take 10 minutes and we'll come back and then maybe you could  
18 just give us a heads up. I'm not going to want to go much  
19 later than 5:00, 5:30 today. Okay?

20 MR. TAMBE: Thank you.

21 THE COURT: Thank you.

22 (Recessed at 3:44 p.m.; reconvened at 4:00 p.m.)

23 CROSS-EXAMINATION (Resumes)

24 BY MR. TAMBE:

25 Q So, Mr. Chu, just one more point of the car

1 evaluation. On the 80 million no-show, each point that you add  
2 to your calculation, how much is that in dollars?

3 A So, I guess that would -- let's see. So if it was  
4 \$100 million, each point would be \$1 million. So it's \$80  
5 million, so it's \$800,000.

6 Q So it's \$800,000 per point. So ten points is \$8  
7 million?

8 A Yes.

9 Q Thirty points?

10 A \$24 million.

11 Q Thirty points is what you added to the Lehman mock  
12 propriety rate?

13 A Yes, it is.

14 Q Okay. Let's talk a little bit about PCDS and  
15 Griffiths (ph). You never built any model for value in PCDS  
16 while you have their transactions on between you, correct?

17 A No, we didn't have a model for PCDS. Sorry. No,  
18 we didn't have a model for PCDS in the sense that it didn't  
19 have -- yeah. No, we didn't have a model for PCDS.

20 Q You didn't construct something that had the prices of  
21 the preferreds, the prices of junior debt, senior debt; nothing  
22 like that?

23 A Sorry. Do you mean where -- okay. But by analogy in  
24 the bond market you could look at the prices of different  
25 senior bonds and you could try to imply a senior CDS curve.



1 No, we didn't have something like that in PCDS. No.

2 Q And that's not something you constructed after the  
3 Lehman bankruptcy as you were thinking about how to value these  
4 PCDS, correct?

5 A When you say "something you constructed," I don't  
6 totally understand what you mean.

7 Q You did not construct a model after the Lehman  
8 bankruptcy to value the PCDS, correct?

9 A Is the question -- did you say "you didn't construct  
10 a model to" -- well, we did an evaluation but we didn't  
11 construct a model of the type that I just described with, you  
12 know, with -- analogous to what you would do with a senior  
13 credit curve.

14 Q Your calculation was a formula on the spreadsheet  
15 under minus the price of the preferred security, correct?

16 A Well, mechanically that's how the calculation was  
17 done.

18 Q But -- and mechanically in that spreadsheet you were  
19 looking at this morning, there were no other analyses about  
20 shorting costs, premium, borrowing cost -- any of that stuff,  
21 correct?

22 A Well, there were no analyses of shorting costs, but  
23 those likely would have increased the plane. We didn't know  
24 what they would be, so we didn't include them. We essentially  
25 assumed the prefers were borrowable.

1 As for the premium, all of that information was  
2 known. That was all in the master spreadsheet. I'm sorry,  
3 sir. What were the other variables you asked me about? So we  
4 talked about premium. We talked about shorting cost?

5 Q Any other analyses. Other than the math, a hundred  
6 minus a bond price -- the preferred stock price -- so we know  
7 about mathematical calculations in your spreadsheet where you  
8 came up for a value for the PCDS positions, correct?

9 A The calculation was based on hedging the jump cost  
10 with the appropriate preferred.

11 Q Right. But nothing in that spreadsheet said hedging;  
12 did it, sir?

13 A I don't think the word "hedging" appeared in the  
14 spreadsheet. I mean, we can look at it again but I think  
15 that's probably right.

16 Q And away from the -- sorry. Are you done?

17 A I'm done, yeah. Thanks.

18 Q Away from the spreadsheet there was no analysis --  
19 written analysis done of how we either might hedge one of the  
20 PCDS contracts that you were constructing -- this hypothetical  
21 replacement transaction report, correct?

22 A Well, I didn't need to write down that the price of  
23 the basis package is 100 if you -- if there's a credit event.  
24 That's something I knew from trading credit for a long time.

25 Q I'm not sure I follow that answer. If I heard you

1 right, you said "I didn't feel the need to write down if the  
2 price of the basis package is 100, if there is a credit; is  
3 that right?

4 A That's what I said, yes.

5 Q Okay. None of the referenced obligations in your  
6 PCDS portfolio had had a credit event on September 15, 2008,  
7 correct?

8 A That's right. None of them had had a credit event.  
9 Yep.

10 Q And none of them had a credit event on the 16th, the  
11 17th, the 18th, or the 19th, correct?

12 A No. There were no credit events during legal (ph)  
13 week on those names.

14 THE REPORTER: Trade what?

15 THE WITNESS: There were no credit events on those  
16 names during legal week.

17 BY MR. TAMBE:

18 Q But your pricing -- the 100 minus the preferred  
19 price, prices it as if a credit event had occurred, correct?

20 A No.

21 Q That's what you said. That's why you didn't write it  
22 down. There was no reason to write it down is what you just  
23 said.

24 A No. The reason why -- what I said is the price on  
25 the basis package is going to be 100 in the event of a credit

1 event. That's why the dealer needs to charge the points  
2 upfront, such that he's not shorting the basis package at a  
3 price less than 100.

4 Because if he shorts it at a price less than 100, say  
5 that prefers at 65 and he shorts it -- he shorts the preferred  
6 to hedge the PCDS trade. Charging no points up front, he's  
7 going to lose 35 points in that trade. So to avoid losing that  
8 35 points, that is to say to hedge that risk, you have to  
9 charge the 35 points up front.

10 Q But that explanation that you just gave the Court and  
11 you provided earlier in your direct testimony, that's not  
12 written down anywhere in that week of 9/15 to 10/15, correct?

13 A No. But that's what I meant when I said I didn't  
14 need to write down that the price of a basis package would be  
15 100 in the event of a credit amend (ph). That's something I  
16 knew from trading.

17 Q Let's go back to the model, all right? So there was  
18 no model prior to the Lehman bankruptcy, correct?

19 A No.

20 Q Again, I'm talking about PCDS.

21 A Okay. Uh-huh.

22 Q You were the trader responsible for marking the PCDS  
23 positions in the portfolio, correct?

24 A Yeah. They were my positions.

25 Q They are your positions and you're responsible for

1 putting a mark on them, correct?

2 A I didn't enter every single mark, but they -- I guess  
3 would say the ultimate responsibility for the mark was mine.  
4 They were my positions.

5 Q And to put a mark on the positions you didn't create  
6 a model, correct?

7 A We did not.

8 Q Okay. You described in very vivid terms yesterday  
9 how liquidity dried up in the PCDS market as you went from '07  
10 through 2008, correct?

11 A That liquidity became much worse.

12 Q And when the liquidity got worse, you did not create  
13 a model to track the effect of that a lack of liquidity on your  
14 marks off the PCDS transactions, correct?

15 A Excuse me. Do you mean did I adjust the marks or  
16 something? I don't understand the question.

17 Q Did you adjust the marks?

18 A No. We used the marks that were given to us.

19 Q And as we move later on into 2008, you became  
20 concerned specifically about Lehman, correct?

21 A We did become concerned about Lehman.

22 Q And I think you said you became particularly  
23 concerned about Lehman after Fannie and Freddie were taken  
24 over, correct?

25 A That's right.

1 Q Now, at that point in time you didn't change your  
2 marks to account for the lack of liquidity, correct?

3 A Well, no, we didn't change the marks at that time.

4 Q If you can turn in your -- find the line I gave you.  
5 (Indiscernible). It's Exhibit 5101. Do you have the documents  
6 here?

7 A Okay.

8 Q And you've had a chance to review it?

9 A Yes.

10 Q So, that's an email chain, it looks like, dated  
11 September 9, 2008. Do you see that?

12 A Yes.

13 Q So, Fannie and Freddie got taken over by the  
14 government over that weekend; is that right?

15 A Uh-huh.

16 Q Yes?

17 A Yes.

18 Q Okay. So that's what heightened your concern about  
19 Lehman starting Monday, September 8th, correct?

20 A I don't know that it was the only thing, but it  
21 definitely added to our concern.

22 Q Well, you've told us yesterday that that event stuck  
23 in your mind because that really elevated your concerns about  
24 Lehman, correct?

25 A It did elevate it. It wasn't -- I'm just saying I'm

1 not sure that was the only thing that was worrying us. But,  
2 yes, it (indiscernible).

3 Q So come the morning of Tuesday the 9th, you see this  
4 as a collateral call discussion, correct?

5 A Yes, I see it as a collateral call discussion.

6 Q And your portfolio, facing Lehman, on September 8th  
7 was similar to the portfolio you had a week later facing  
8 Lehman, correct?

9 A It was broadly similar, yes.

10 Q Basically the same risks, right?

11 A Well, we took off a fair amount of protection. As I  
12 -- I think as I said I -- I think I took off something like 21  
13 trades that were Lehman facing during that week. But overall  
14 the shape of the portfolio in terms of being net long  
15 protection was the same, yeah.

16 Q That was my question. You were net long on Monday  
17 the 8th. You were net long on Monday the 15th, correct?

18 A Net -- well, in protection.

19 Q Correct.

20 A Facing Lehman. Facing Lehman.

21 Q Correct. And when the events off the conservatorship  
22 of Fannie and Freddie, that portfolio didn't move in your  
23 favor; it moved in Lehman's favor on the 8th of September,  
24 right?

25 A Assuming that this margin mark is correct, that's

1 what it seems to indicate. Yep.

2 Q Well, you got copied on this discussion at the top.  
3 Do you see that?

4 A I do.

5 Q Okay. So let's -- and you didn't write back and say  
6 "This is completely wrong. How could this possibly be the  
7 case?" You didn't do that, did you, sir?

8 A I don't remember writing any such email, no.

9 Q In fact, you rarely got involved in margin  
10 discussions, correct?

11 A It was infrequent. It wasn't never, but it was  
12 infrequent.

13 Q This one was brought to your attention?

14 A Okay.

15 Q Well, this is September the 9th. We saw yesterday  
16 the email on September 8th, where you said what happens if  
17 Lehman defaults? Do you remember that email chain?

18 A Yes.

19 Q So, let's start at the bottom here of Exhibit 5101,  
20 and you'll see the subject line "LBSF calls QBT for \$12  
21 million." Do you see that?

22 A Yes.

23 Q And you recognize that as a call from Lehman to QBT  
24 to return some of the collateral that's being held by QBT,  
25 correct?



1 A Yes.

2 Q And if you look at the bottom there -- and so that  
3 email is from Kelly Fang (ph) to Julian Serro (ph). Do you see  
4 that?

5 A I see it.

6 Q So she has described the LBSF call to QBT, but the  
7 bottom she writes "I think we should agree to the call because  
8 QBT data shows similar drop in mark to market, and trade  
9 activities are 9/8, and Mordor (ph) show we are liable for call  
10 of \$18 million." Do you see that?

11 A Yes.

12 Q So, Mordor is a reference to your collateral  
13 calculation system, correct?

14 A Yes, I think so.

15 Q And then gets its data from Pikey (ph), correct?

16 A I think it gets some of its data from Pikey. I'm not  
17 sure it gets all of its data from Pikey.

18 Q That's the system you have, right?

19 A Yes.

20 Q I mean, just to be clear. And that's the system you  
21 have for managing collateral calls and collateral movement for  
22 what, a \$15 billion portfolio?

23 A Yes, that would -- I think Mordor wasn't a -- used  
24 for collateral management.

25 Q And you thought it was a pretty good system, didn't

1 you?

2 A Well, we used it. As to whether it was -- we used  
3 it.

4 Q You didn't tell your investors you were just using  
5 some system, right? You were telling your investors you had  
6 good systems to take care of the \$13 billion they had invested  
7 with you, right?

8 A Yes. I think we told investors we had good systems.  
9 I just don't know if I ever talked to any investor about Mordor  
10 or not.

11 Q And, in fact, your system was saying you had even  
12 more -- you should be returning even more collateral to the \$18  
13 million, not 12?

14 A It says "Mordor shows we are liable for a call of \$18  
15 million."

16 Q Okay. Now, you said that, sir, a larger number than  
17 \$12 that LBSF was requesting.

18 A Yes. I agree that 18 is larger than 12.

19 Q Did you send 18 million over or just the 12 that  
20 Lehman was requesting?

21 A I don't know what we sent over. I don't know. I  
22 don't think it would be 12, but I don't know.

23 Q As you digested the news about Fannie and Freddie  
24 going -- getting taken over by the government, you didn't go  
25 and reprogram the way you were marking your PCDS positions,

1 correct?

2 A Are you asking whether I submitted and used spreads  
3 for PCDS for marking?

4 Q Whether you submitted new spreads to PSCS for  
5 marking; whether you set -- hey, this stuff is really your  
6 liquid. Let's put a big -- put a new mark on it. Did you do  
7 any of that?

8 A I don't think I changed any of the mark inputs that  
9 way, no.

10 Q And the concern continued to rise through the week of  
11 September 8th concerning Lehman, correct?

12 A Yes. Uh-huh.

13 Q And there was a weekend exchange of exposures --  
14 small lien (ph) exposures to Lehman that were shared among the  
15 management team at QBT, correct?

16 A Yeah. I think there were emails about exposures over  
17 the weekend, yeah.

18 Q And you studied those emails?

19 A I received them, yes.

20 Q You didn't just receive them. You were focused on  
21 them because you were talking about exposure to Lehman if  
22 Lehman should fail, right?

23 A Is there a particular email you'd like me to look at?

24 Q Just generally. We can get to the -- were there  
25 emails concerning Lehman's failure and your exposure to Lehman

1 that you didn't care about?

2 A No, I cared about them.

3 Q Every one of those was important to you, right?

4 A Well, if you want to -- I think I -- the question of  
5 exposure to Lehman was definitely important to me. I think I  
6 read a lot of emails, or whatever emails I got I think I  
7 probably read most of them. Perhaps I read all of them. I  
8 think that's a fair description of it.

9 Q Let's go to 44 -- tab 44, which is Exhibit 5120.

10 A One hundred and --

11 Q No, I'm sorry. 44 is the tab number.

12 A Oh, okay. 44.

13 Q And the exhibit is 5130.

14 A Uh-huh. Okay.

15 Q And so there's two things on this document. So just  
16 to get you oriented, the numbers -- the spreadsheet I'm going  
17 to ask you to look at is a later page in (indiscernible format.  
18 But the email text I'm going to ask you about, it's probably  
19 easier to read on the first page. So whatever order you want  
20 to take it in, let me know when you're done. I'll ask you a  
21 few questions.

22 A Okay. So the -- I guess there's like a landscape  
23 format version of this. That's the same email.

24 Q Oh, okay. Yes. That's so that all of the columns  
25 print out on a page. Do you see that?

1 A Okay. Yeah, I see it.

2 Q Okay. And this is an email you recall getting that  
3 weekend before they (indiscernible) back to you, right?

4 A Yes.

5 Q But there's probably later that same day, Sunday,  
6 September 14th, where you drew up your list of positions and  
7 started discussing replacement and priorities, correct?

8 A It was the 14th. I don't remember if it was before  
9 or after this email, but I think that we drew up the positions,  
10 or I drew up the positions on Sunday. That's right.

11 Q And you'll see that the table that is forwarded --  
12 that you're initially copied on and is the subject of email  
13 above, that has various types of Lehman exposures. Do you see  
14 that?

15 A Yes.

16 Q And I want to draw your attention to the third  
17 custodian down, which is LBSF. Do you see that?

18 A Yes.

19 Q And if you follow that line across, you'll see the  
20 sum of TD derivative value. Do you see it?

21 A Yes.

22 Q That's about 116 million, almost 117 million. Do you  
23 see that?

24 A Yes.

25 Q And right below that you see another line that says

1 LBSF margin. Do you see that?

2 A I do.

3 Q And you follow that across and that has a number  
4 slightly above 117 million negative. Do you see that?

5 A I do.

6 Q And these are numbers pulled from your system, the  
7 QBT, correct?

8 A Yes, I think so.

9 Q Right. And they've been pulled for the purpose of  
10 informing management as to how to prepare for a potential  
11 Lehman bankruptcy?

12 A Yep, that's fair. Yep.

13 Q And when you received these numbers, you didn't  
14 respond and say "Wait a second, the PCBS trades alone are worth  
15 100 million more." You didn't say that, did you, sir?

16 A No. I don't think I said anything about PCBS in this  
17 email.

18 Q And the purpose here was to assess your exposure to  
19 the various Lehman entities, right?

20 A Well, I think what I asked for that -- let's just  
21 look at the email for a second. So, I think what the email  
22 says is -- it's an email from me at 10:38 a.m. to Julian and  
23 Chris -- Julian Sayle (ph) was the CFO, Chris Perez was the  
24 chief first officer, and it just says "Can you please update  
25 our LEH exposure in PB, et cetera?"

1           So when you say "assess the exposure," I think that's  
2           a pretty broad term. I think what I'm asking them to do is to  
3           update where we are on marks versus collateral, for instance,  
4           which they do.

5           But as to the question of assessing the jump risk in  
6           the portfolio, I don't think that's something that Julian and  
7           Chris are being asked to evaluate it here.

8           Q     Well, that's an idea that comes up later on in your  
9           discussions, correct?

10          A     Later? What do you mean, in our discussions?

11          Q     Well, this whole concept of jump risk, that's a  
12          concept that emerges later on. It's not a missing voucher,  
13          right?

14          A     Well, I think we were aware of the concept of a jump  
15          risk or the idea that a long protection portfolio would  
16          increase in value and you would sort of, well, not realize that  
17          increase in value as a result of the default of the counter  
18          party. I think we were aware of that before this. But there  
19          isn't further discussion of a jump risk in this email, if  
20          that's what you're asking.

21          Q     Just fast forwarding a couple of days to September  
22          16th, you're aware that there was a collateral call made by QBT  
23          to Lehman on the morning of the 16th, correct?

24          A     I am.

25          Q     And you didn't adjust any of your modeling or

1 evaluation parameters before that collateral call was made,  
2 correct?

3 A No. I don't recall doing anything like that.

4 Q And you do understand that that collateral call was  
5 made based on data from QBT systems, correct?

6 A I don't know that -- I don't think I was involved in  
7 that collateral call, so I don't actually know what date it was  
8 based on.

9 Q Let's go to tab 93 and find it, please. It's Exhibit  
10 5169. Let me know when you're done reviewing that document and  
11 I'll ask you a question.

12 A All right.

13 Q So -- well, you've seen that document before today,  
14 right?

15 A Yeah, I've seen it before today.

16 Q And you know what it's generally about, right?

17 A Yeah, I know what it's generally about.

18 Q And you would have received a copy of this at the  
19 time because you are one of the recipients and managing members  
20 at QBT.com, correct?

21 A Yes.

22 Q And you don't recall responding to this email and  
23 objecting to the calculations that are set forth in this email,  
24 correct?

25 A No, I didn't object to Kelly Fang's calculation.



1 Q Now let's go to some of the questions you were asked  
2 yesterday about PCDS evaluation, and so we can probably work  
3 out the (indiscernible).

4 A Huh? Is that okay?

5 Q I'll give you a document number in a second. It is  
6 CX2096.

7 A 209 -- okay.

8 Q Right. It's the Bloomberg shots that we discussed  
9 for some time yesterday. Do you see it?

10 A I do.

11 Q Now, this is sort of a compilation of various  
12 Bloomberg shots. Do you see that?

13 A I see it.

14 Q Was it your decision to decide which Bloomberg shots  
15 to include in this compilation for purposes of this trial?

16 A No. I don't think I made the decision about which  
17 Bloomborgs to include.

18 Q So someone else made that decision, but you spoke  
19 about these -- some of these Bloomberg shots, yes, correct?

20 A Yes, I did. Uh-huh.

21 Q And you have lots of other Bloomberg screenshots that  
22 are not included in this exhibit, correct?

23 A Yes. There are some other Bloomberg screens. This  
24 is not a comprehensive list of all the Bloomberg screenshots I  
25 said, no.

1 Q And just to be clear, this is not a comprehensive  
2 list of all of the Bloomberg screenshots concerning the PCDS  
3 evaluation, correct?

4 A Yeah, I think that's right. Uh-huh.

5 Q And it's not even all the information that you had  
6 available to you from Bloomberg about the relevant referenced  
7 obligations that are in this exhibit 2096, correct?

8 A Sorry. Are you asking whether Exhibit 2096 includes  
9 all of the information on preferreds that I would have ever  
10 received on my Bloomberg in that time? I'm not sure I  
11 understand the question.

12 Q No. There are specific issuers that are included in  
13 this exhibit, correct?

14 A Okay. Uh-huh.

15 Q Yes?

16 A Yes.

17 Q And as you understand this exhibit, you have 19  
18 issuers in the PCDS that you value?

19 A Right.

20 Q Right. All 19 are not discussed in here -- in this  
21 collection?

22 A Correct. You don't have all 19 issuers in this  
23 packet. That's right.

24 Q Okay. And with respect to the ones that you do have  
25 in here, you don't have a lot of information about those

1 issuers that was available to you at the time, correct?

2 A When you say I "don't have a lot of information about  
3 these issuers that was available to me at the time," I mean,  
4 sure. There's lots of other information about ANZ, for  
5 instance, that one could find at the time, sure.

6 Q Right. So it's not -- you don't, for example, have  
7 the prices for all the relevant ANZ or ANZET (ph) preferred  
8 securities for this time period, correct, not in this document?

9 A No. This -- well, I'm trying to remember because I  
10 remember in the case of ANZ it was particularly hard to find  
11 prices. I don't think I actually have other prices in the case  
12 of ANZ in particular, no.

13 Q How about BNP Paribas (ph)?

14 A I think there are some other BNP Paribas data, but I  
15 would have to look to be sure, yeah.

16 THE COURT: Could I -- I'm trying to understand what  
17 these answers mean. Are you distinguishing or are you trying  
18 to ask Mr. Chu to distinguish between what happens to be in  
19 this binder versus everything that he looked at? Because I am  
20 unclear what this binder -- what this is supposed to represent.

21 MR. TAMBE: Sure. It's partly a question for Mr. Chu  
22 and --

23 THE COURT: Okay. But based on the Q and A that  
24 you've just had, I don't know -- I don't know what the answer  
25 is.

1 BY MR. TAMBE:

2 Q It's an easy question, I hope.

3 A Okay.

4 Q This isn't everything you looked at in connection  
5 with your evaluation of the PCDS, right?

6 A No, it is not everything I looked at in connection  
7 with the PCDS.

8 Q And even for the referenced entities that are named  
9 in here, it's not everything that you looked at, but those  
10 references, correct?

11 A Right. So, for example, later on there's something  
12 on -- there's some Bloomberg shots, for instance, that have  
13 prices on Citigroup and Wachovia. But there are other  
14 screenshots that I have of Citigroup and Wachovia prices. So  
15 it does not have everything related to these referenced  
16 entities, correct.

17 Q Okay. And for some of the reference -- well, it's a  
18 state of -- but these referenced entities also not included in  
19 this package is the size of their preferred equity outstanding  
20 in September of 2008, correct?

21 A Correct. So you can't see the size of the issue from  
22 these.

23 Q Now, some of that information would have been  
24 available to you on Bloomberg when you were doing your  
25 evaluation, correct?

1 A Yes. You could see the size of the issue, yes. Uh-  
2 huh.

3 Q But that's not something you included in this  
4 exhibit, correct?

5 A It's not in this exhibit, nope.

6 Q And it's not something you included in the  
7 spreadsheet where you did your math -- the 100 minus  
8 (indiscernible)?

9 A No. There is nothing that says the size of ISIN or  
10 QCIP (ph) in question.

11 Q Now, there's been a fair amount of discussion that as  
12 a whole you have 371 million noshino (ph) off PCDS across the  
13 60 transactions that you have, correct?

14 A That's right.

15 Q But that wasn't all one package, correct? They were  
16 separate trades?

17 A There are 19 different references (ph) out of these  
18 that make up the 371 million.

19 Q Right. And generally, less than 25 million noshino  
20 for any single name, correct?

21 A Yeah. I mean, on average, it's going to be roughly  
22 370 divided by 19.

23 Q And for the referenced names you have included in this  
24 Exhibit 2096, you do know that they had billions of dollars off  
25 preferred equity outstanding in September, 2008, correct?

1 A Sorry, for these different entities?

2 Q Yeah.

3 A Yeah, I don't know whether, for instance, Commonwealth  
4 Bank of Australia or ANZ did or not but, taken as a whole, I  
5 would think -- expect they would have billions of dollars, yes.

6 UNIDENTIFIED SPEAKER: Taken as a (indiscernible).

7 THE WITNESS: Taken as a whole, I would think they  
8 would have billions of dollars.

9 BY MR. TAMBE:

10 Q BNP had about what, 10 billion in recorded equity  
11 outstanding in 2008?

12 A I don't know the amount of preferred equity that BNP  
13 Paribas had outstanding in 2008.

14 Q Significant amount though?

15 A Yes, it was likely a significant amount.

16 Q It's not a small bank. I may we -- it may not be a big  
17 bank in the U.S. but it's a big bank globally, right?

18 A It's a big bank, yes.

19 Q Okay. And about a billion or more for each of the others  
20 you talked about yesterday ANZ Commonwealth?

21 A I actually don't know. It wouldn't surprise me if they  
22 had a billion or more but I don't know the exact number.

23 Q Commonwealth Bank of Australia?

24 A I don't know, it's all standards and preferreds.

25 Q Robo Bank?

1 A Again, I don't know the exact numbers.

2 Q And also not reported here but likely available to you is  
3 information about retail trading in preferred equity for any of  
4 the issuers, the 19 issuers in your portfolio, correct?

5 A Some of them have retail preferred, some of them don't.

6 Q And the ones that have retail preferred, that was  
7 available to you sitting at your Bloomberg terminal or whatever  
8 the terminal you have, correct?

9 A Yes, if you knew the CUSIPs, you could find those things  
10 on Bloomberg, sure.

11 Q And that's not something you went looking for, correct?

12 A I used some retail preferreds in the valuation but I  
13 didn't find every retail preferred that I could have found in,  
14 you know, referencing these obligations, these issues.

15 Q By your (indiscernible) -- sorry.

16 A Yeah.

17 Q Yeah?

18 A Sure. Yeah.

19 Q That it? They want to make sure you're done.

20 A Okay. I thought I was answering your question. If I  
21 didn't answer it --

22 Q No, you answered my question, I just --

23 A Okay.

24 Q -- thought I interrupted you interrupting. We're trying.

25 THE COURT: So you want to go out for a drink?

1 MR. TAMBE: Yes, definitely.

2 BY MR. TAMBE:

3 Q Slightly different question. It's not that you didn't  
4 look at prices of some of the retail --

5 A Okay.

6 Q -- it's the volumes. Did you look at the volumes of what  
7 was traded in those retail preferreds that you did look at that  
8 week?

9 A I can't remember whether the HP screen for these retail  
10 preferreds would tell you the volume or not in the case of the  
11 retail preferreds I looked at.

12 Q Okay. But the HP screen is just one of probably gazillion  
13 screens on Bloomberg, right?

14 A Mean -- do you mean did I separately analyze the volume of  
15 the retail preferreds? No, I don't think I did that.

16 Q All right. So let's look within Exhibit 2096. You  
17 talked, I think, on direct about some of the pages but not all  
18 the pages so let's go to page that ends in Bates No. 92, 4792.

19 A Uh-huh.

20 Q Beginning page that size. It looks a little different  
21 than the other screens we were looking at. This is more like a  
22 message, right?

23 A This is a Bloomberg message.

24 Q From someone at City?

25 A Yes, from Intasar Hayder (ph) at City.



1 Q That's someone you knew at City, correct?

2 A Correct.

3 Q Okay. And he gives a bunch of prices but then he says at  
4 the bottom there traded north of 300 million now in this sector  
5 alone. Do you see that?

6 A I do see that.

7 Q And the securities he's talking about above are all  
8 preferreds, correct?

9 A Yes.

10 Q And you have preferreds -- or you have PCDS on City Group,  
11 C?

12 A Yes.

13 Q And on WFC?

14 A Uh-huh. Well, WB.

15 Q Wellborn (ph)? And WB, right?

16 A Uh-huh.

17 Q Yes?

18 A Yes, we do.

19 Q And then if you go a few pages further down, it's the one  
20 4796.

21 A Okay.

22 Q It should be 4796. It's a -- yup, got it. So the --  
23 you'll see the bottom. Again, it's from the same person at  
24 City and he says traded north of 250 million of paper in this  
25 space. Do you see that?

1 A I see it.

2 Q All right. So this -- one trader at City in that week has  
3 traded about half a billion dollars' worth of preferred  
4 securities, correct?

5 A Well, he doesn't actually say over what time period he's  
6 traded this amount of paper.

7 Q Did you ask him?

8 A I didn't ask him, no.

9 Q But you were grappling with this problem, how do I -- how  
10 do you PCDS, Lehman's gone away, there's no liquidity, the  
11 world order has changed. You call up this trader at City and  
12 say hey, give me some intel on what's trading and how much and  
13 where, right?

14 A Sorry, what -- what's the question?

15 Q The question is did you ask any of those questions of this  
16 trader who's telling you he's doing some activity of some  
17 significant size --

18 A Uh-huh.

19 Q -- in preferreds?

20 A I didn't talk to this trader about it, no.

21 Q And this is just one of lots of traders who traded  
22 preferred securities that week, right?

23 A Yes, there are other dealers other than City, definitely.

24 Q And, again, you may have gotten a lot of other Bloomberg  
25 messages from those dealers but they're not, obviously, in this

1 exhibit, right?

2 A No, they're not in this exhibit.

3 Q Did you search your Bloomberg messages to say let's go  
4 find all transactions that were ordered to meet in preferred  
5 securities that week?

6 A Sorry, when you mean all transactions that were reported  
7 to me on message, I'm not exactly sure what you mean because, I  
8 mean, it -- they're not reported to you the way they are like  
9 if you look at the -- a stock, for instance. A stock you can  
10 see, on a very high frequency basis, this many shares traded at  
11 this price but Bloomberg messages -- I mean, they are --  
12 they're just not organized in that way. I don't -- totally  
13 understanding what your question is.

14 Q You got me. I used the wrong word. I used the word  
15 transaction.

16 A Okay.

17 Q Did you search your Bloomberg messages for quotes on  
18 preferred securities, bid asks like you see on this page of  
19 this exhibit?

20 A Yes, I looked through a fair amount of Bloomberg messages  
21 to try to get an idea of what was going on in the market.

22 Q And off the six to 9,000 Bloomberg messages you get a day,  
23 how many hundreds of pages like page 4796 and the rest of this  
24 exhibit, Exhibit 2096, did you find?

25 A I don't know how many messages I found.

1 Q Did you go looking for messages that reported volumes like  
2 the City Group trader reports in his Bloomberg message to you?

3 A No, I didn't specifically look for volumes, no.

4 Q Let's go back to the front of this exhibit and the BNP  
5 page which is page 4790 -- let me know when you're there.

6 A 479 -- okay.

7 Q See it?

8 A I do.

9 Q You used -- I think you told us yesterday that you used  
10 one of the prices from this page for your calculation, correct?

11 A Yes, I think so. Uh-huh.

12 Q Which one is it?

13 A I think it would have been the low -- I mean, assuming I  
14 was -- transcribed these correctly into the spreadsheet, it  
15 would have been the price on 9/18 which is the price 59.9726.

16 Q Did you put the L there?

17 A No, that's something that Bloomberg does.

18 Q Because it's the lowest price in your period, correct?

19 A I think that's how it works, yes, that's right.

20 Q I mean, in fact, it's the lowest price in that entire  
21 period that ranged from October, '07 until September, '08?

22 A Yes. Yes, it is.

23 Q Right?

24 A That's right.

25 Q That's how Bloomberg works, right?

1 A Well, it -- that is the lowest number of all these numbers  
2 here, yeah.

3 Q Right. And you'll see if you look at this Bloomberg data  
4 that if you compare, for example, the end of July, 2008, bottom  
5 right-hand corner, right --

6 A Uh-huh.

7 Q -- to September 8th, Fannie and Freddie day, the price of  
8 this security's higher on Fannie and Freddie day?

9 A Well, the quoted price is higher.

10 Q Right. That's all we can tell from this sheet, right?

11 A Yeah. Uh-huh.

12 Q Okay. And it remains in the 64 range through 9/15,  
13 correct?

14 A That's right.

15 Q And you are picking up close. That's what you specify at  
16 the top of the page, correct?

17 A Yeah, it should be closing prices, yeah.

18 Q Okay. Right. And so that would be the close on 9/15,  
19 Lehman Monday, correct?

20 A Do you mean the 64.5918?

21 Q Yeah.

22 A Yeah, that would be the close on Lehman Monday, right.

23 Q Now, these were -- I think you may have testified these  
24 were mid-market prices, right?

25 A Yeah, that's what it says. It says on -- in the middle

1 next to 9/26/08, it says market M, mid slash last. It says  
2 mid, yeah.

3 Q Okay. So for BNP, the price you used was 59.97 from  
4 Bloomberg, a mid-market price, correct?

5 A Right.

6 Q And I think you've expressed this view previously that you  
7 thought maybe this is stale, this is some -- there's something  
8 wrong with this data, right?

9 A Well, I think you would question whether you can  
10 definitely trade at these prices or not or whether -- you just  
11 don't know how many bonds traded at or around those prices on  
12 any of these days. You just can't see it from this data.

13 Q So, again, let's do this thing where you hold your hand on  
14 that page.

15 A Okay. Of -- sorry, so this BNP page?

16 Q This BNP page.

17 A Okay. That's fine.

18 Q And then we'll go to Exhibit CX-1447.

19 A Uh-huh.

20 Q That's a Bloomberg message from Peter Camps of JP Morgan?

21 A Yeah.

22 Q Right? And he's got a whole series of preferred prices  
23 there. Do you see that?

24 A I do.

25 Q All right. Bids and offers, right?

1 A Uh-huh.

2 Q And he's saying these are retail, USD Euro retail pref  
3 updated levels. Do you see that?

4 A Yes, but I don't think these are \$25 preferreds that trade  
5 on the exchange.

6 Q So these are not necessarily just retail, there may be  
7 some institutional ones in there?

8 A Yeah, I -- for instance, I don't think the bonds, the  
9 ACAFP7s that are at the top, I don't think those trade on any  
10 -- well, I don't think they trade on the New York Stock  
11 Exchange, for instance, the way say the City Group 8.125 still.

12 Q And he's got BNP there, two different bonds of BNP, where  
13 he's quoting 8284 --

14 A Uh-huh.

15 Q -- 2-1/2 points wide, another one, 8688.50, again, 2-1/2  
16 points wide. Do you see that?

17 A Yes, I see that.

18 Q And that's not a mid-market quote, right?

19 A Yes.

20 Q And that's considerably higher than what Bloomberg was  
21 showing either at the close of 9/15 or the open of 9/16. You  
22 see that?

23 A But it -- yes, but it's not the same bond.

24 Q But it's a BNP bond under the word carnage, is a preferred  
25 security issued by BNP that he's got at 8688 on Tuesday

1 morning?

2 A Well, I agree that that's what it says. I'm just saying  
3 that that's a 6-1/2 percent bond and the other bond is a 4-  
4 7/8ths percent bond.

5 Q As you go further down -- and just look at some of these  
6 names. You got Robo Bank down there?

7 A Uh-huh.

8 Q -- in his Exhibit CX-1447?

9 A Uh-huh.

10 Q And he's quoting one Robo bond at 8991 and the next one at  
11 95-5 -- 97-5, again, about two points wide. You see that?

12 A Yes, I see that.

13 Q And further down, you got Deutsche Bank which he's quoting  
14 on Tuesday morning at 8950, 9150. Do you see that?

15 A I do see that, yes.

16 Q And these are all issuers that were referenced in your  
17 BCDS portfolio, correct?

18 A Yes, and he also has the BNP 4.875, substantially lower  
19 than where they're shown in the Bloomberg which is the line  
20 above the DB's.

21 Q Correct. Did you call up Mr. Camps and say hey, I'm  
22 looking at Bloomberg's, there wasn't a lot of prices here, can  
23 I get some more flavor on what the volumes are? Who's trading  
24 this?

25 A No, I don't believe I called Peter Camps on



1 September 16th.

2 Q Do you ever call Peter Camps on any of this data?

3 A I don't think I talked to him about it, no.

4 Q You told us yesterday that you went looking through your  
5 Bloomberg messages for messages to help you make your  
6 calculation; is that right, BCS calculation?

7 A That -- that's right.

8 Q And you find a couple of messages from Ms. Ullrich when  
9 you went looking for Sun Trust and Wachovia; is that right?

10 A Yes.

11 Q And to find those, you typed in Sun Trust?

12 A I probably tried a couple different things. I could type  
13 Sun Trust, I could type STI. I mean, I guess there are  
14 different ways to find it, yeah.

15 Q But you don't remember how you located those particular  
16 messages from Mr. Ullrich, right?

17 A I don't remember what command I used, no.

18 Q And neither Wachovia or nor STI appear on Mr. Camp's list,  
19 correct?

20 A I don't think so. I mean, I can take a look. Just a  
21 second. No, it doesn't look like it.

22 Q So you used a different search term to find Mr. Camp's  
23 messages, correct?

24 A Right, I -- yes, I would think so, yup. Uh-huh.

25 Q Did you go looking for Mr. Camps?

1 A Well, I think what happened is I was looking at -- I don't  
2 remember which of the names it was that caused me to find Mr.  
3 Camps' run but once you know Peter Camps put out a run, you can  
4 just look for Camps and just see all the thing that Peter Camps  
5 gives you.

6 Q And you found all the messages and commentary from Mr.  
7 Camps, correct?

8 A Well, I would assume so if I put in Peter Camps, yeah.

9 Q And you included it in the exhibits you discussed with the  
10 Court, yes?

11 A Well, there is -- I don't think these are all the  
12 Bloomborgs that Peter Camps sent me but there are Bloomborgs  
13 from Peter Camps, that's right.

14 Q Well, nor are they all the Bloomborgs that other brokers  
15 sent you also talking about preferreds perhaps with different  
16 commentary, are they, sir?

17 A No, they're not all the Bloomborgs, no.

18 Q You probably have hundreds of Bloomborgs, maybe thousands  
19 --

20 A Okay.

21 Q -- discussing prices, market color, various things --

22 A Uh-huh.

23 Q -- on preferred securities, correct?

24 A Uh-huh. Yeah, I would think I have a fair amount of  
25 Bloomborgs, yeah.

1 Q But the ones you chose to discuss were these ones from Mr.  
2 Camps, correct?

3 A Those are the ones we talked about yesterday, yeah.

4 Q At any time between 9/15 and 10/15/08, did you search your  
5 Bloomberg messages just for preferreds or pref?

6 A Probably. I mean, I don't remember typing in pref but I  
7 -- definitely possible, yeah.

8 Q Because you did miss the Merrill Lynch e-mails, correct?

9 A Which Merrill Lynch e-mail you're talking about?

10 Q October 1 and October 2 with an offer not of preferreds  
11 but an offer on PCDS.

12 A Oh, okay. So this is the PCDS Merrill Lynch October 1 and  
13 October 2 things. No, I didn't see those Bloomborgs, right.

14 Q So whatever search you were running through your Bloomberg  
15 messages, you just missed those?

16 A Well, hang on a second. I wasn't searching. I had  
17 finished my PCDS valuation by, I think, the 28th of September  
18 so I wasn't searching I don't think -- I don't think I was  
19 searching anything at that time related to preferreds.

20 Q Weren't you looking to replace your PCDS risk?

21 A We would have liked to replace our PCDS risk, I guess, if  
22 that's what you mean.

23 Q I mean, if you'd have liked to replace your PCDS risk,  
24 you'd have been looking for offers for PCDS in this incredibly  
25 illiquid, dysfunctional market that you described yesterday.

1 A Well, I don't think that's really right. I mean, we -- I  
2 wasn't looking around for PCDS offers on October 1st and 2nd.  
3 I don't think I was looking around for PCDS offers during the  
4 week of September -- you know, the week preceding that. It was  
5 -- I had spent a lot of time looking for PCDS offers from  
6 Lehman. I had asked JP Morgan. I'd never traded with any  
7 other dealer so I actually wasn't spending a lot of time  
8 looking for PCDS and I definitely wasn't on October 1st and  
9 2nd.

10 Q All right. Because by that time, you had a claim on your  
11 PCDS numbers of \$134 million, right?

12 A No, it's because I -- it's like there -- Lehman traded  
13 PCDS. I'd asked JP Morgan. They're -- they were a second  
14 largest derivatives counter-party and we did market quotation  
15 on PCDS. We got nothing back on PCDS and so I just didn't hold  
16 out a lot of hope that suddenly with Lehman's demise, a PCDS  
17 market would sort of spring up out of nowhere. It just didn't  
18 seem like a very likely event to me.

19 Q And yet there was the Merrill Lynch e-mail, right?

20 A Well, there was a Merrill Lynch offering in PCDS, sure,  
21 definitely.

22 MR. TAMBE: This is a good time to stop, Your Honor,  
23 if it's okay with you.

24 THE COURT: Okay. All right. So, Mr. Chu, thank you  
25 very much. You can step down for the day. All right?

1 THE WITNESS: Thank you, Your Honor.

2 THE COURT: Same rules apply over the weekend in  
3 terms of your conversations with folks. Okay?

4 THE WITNESS: Okay.

5 THE COURT: All right. So let's talk about Monday  
6 which is the only day we're going to be together next week.  
7 And, Mr. Tracey, I think you had said -- I don't know if you  
8 want to talk about it today but you had done some thinking  
9 about, generally speaking, where we are in the grand scheme of  
10 things.

11 MR. TRACEY: Yes, and I --

12 THE COURT: You can step down, sir.

13 THE WITNESS: Oh, that's right. Thank you.

14 THE COURT: Okay. You can leave those binders there.

15 THE WITNESS: Okay.

16 THE COURT: Thank you.

17 MR. TRACEY: We tried during the break and went  
18 through my current sort of lineup.

19 THE COURT: Sure. Hold on one second, let me see if  
20 I can find my --

21 MR. TRACEY: Oh, it's changed a lot.

22 THE COURT: Yeah, so the one I have --

23 MR. TRACEY: It's changed a lot.

24 THE COURT: Yeah, it's changed a lot.

25 MR. TRACEY: And we -- and, unfortunately, we've

1 added a couple of more witnesses because we're get -- if we're  
2 going to need to put all the traders on that's -- we were  
3 talking about this morning, there are more traders we'd have to  
4 put on.

5 I'd like to try to avoid that and one of the things  
6 I'm going to talk to Mr. Tambe over the weekend about --

7 THE COURT: Is --

8 MR. TRACEY: -- is how we could possibly do that.

9 THE COURT: Right. Okay. So subject to that then, I  
10 mean, in the near term, all -- you know, we have you booked  
11 through March.

12 MR. TRACEY: Okay.

13 THE COURT: So that's just going to stay the way it  
14 is.

15 MR. TRACEY: Okay.

16 THE COURT: All right? And, you know, the week of  
17 President's Week is still blocked off because people have other  
18 things they need to do. I'm going to be here getting as much  
19 of -- you know, everything else done but -- I mean, so  
20 immediately, we're just talking about Monday.

21 MR. TRACEY: Right.

22 THE COURT: So is that going to be Mr. Chu you think  
23 for the entire day? I know.

24 MS. SAWYER: We're afraid of that.

25 MR. TAMBE: I could please not be a part of it and I

1 was told probably just two months or a little past that.

2 That's my best guess (indiscernible).

3 THE COURT: Okay. Just bear in mind though in  
4 planning that that then we're going to have a week hiatus. So  
5 just in terms of not leaving a witness hanging for that period  
6 of time, right?

7 MR. TRACEY: So -- yeah, so we've been giving some  
8 thought to that and I don't think we can put Joe Loman on after  
9 Mr. Chu because I think that he's at least a full-day witness.  
10 So we have Tracy Fu lined up for Monday. The slight issue with  
11 him is that he's on jury duty and he's in New York State Court  
12 and his jury -- his trial begins -- resumes at 2 o'clock on  
13 Monday. So if we're going to put him on, it would be good to  
14 get him on before that.

15 THE COURT: He's on a jury?

16 MR. TRACEY: He's on a jury, correct?

17 MS. SAWYER: Yeah, selected for the jury, yes.

18 MR. TRACEY: Selected for a jury.

19 MR. TAMBE: Your Honor, if it's okay with you, I'm  
20 happy to have Mr. Fu go first thing Monday morning so you get  
21 him on his way up.

22 MR. TAMBE: He would be really short.

23 MS. SAWYER: Yeah.

24 MR. TRACEY: Yes, he'd be very short.

25 THE COURT: If the --

1 MR. TRACEY: That would be great.

2 THE COURT: Then if you're amenable to that, then  
3 that's great. So we're going to have Mr. Fu first followed by  
4 Mr. Chu.

5 MR. TRACEY: Great. And that's probably the bet.

6 THE COURT: All right.

7 MR. TRACEY: Oh, maybe not. I don't know, is that  
8 the med (ph)?

9 MR. TAMBE: It should be med.

10 MR. TRACEY: Oh.

11 MR. TAMBE: Yeah, because you can't start Joel after  
12 that.

13 MR. TRACEY: Right.

14 THE COURT: Do you want to start on Monday at 9:30  
15 just to be sure?

16 MR. TRACEY: Sure.

17 THE COURT: Yes?

18 MR. TAMBE: Yeah.

19 THE COURT: Okay. So we're going to start at 9:30 on  
20 Monday. Oh, right, and I have a thing that I have to do at  
21 1:30 on Monday.

22 MR. TRACEY: Okay.

23 THE COURT: Okay? So we'll just work the break  
24 around that. All right. Anything --

25 MR. TRACEY: That works.



1 THE COURT: Anything else we should talk about today?

2 MR. TRACEY: I don't think so, Your Honor.

3 THE COURT: Okay. All right. So just -- and because  
4 I'm out next week, I mean, you don't have to move out, you  
5 don't have to move out of your rooms, just tidy up and leave  
6 everything. All right. Have an excellent weekend. Thank you  
7 very much.

8 COUNSEL: Thank you, Your Honor.

9 THE COURT: Thank you, Rachel.

10 (Whereupon, these proceedings were concluded at 4:54 p.m.)

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C E R T I F I C A T I O N

I, Sherri L. Breach, certify that the foregoing  
transcript is a true and accurate record of the proceedings.

Sherri L  
Breach

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